

000537**DOCKET SUPPORTING INFORMATION
CITY OF SAN DIEGO**

DATE:

331
03/10**EQUAL OPPORTUNITY CONTRACTING PROGRAM EVALUATION**

November 25, 2008

SUBJECT: Soledad Mountain Road Emergency Road Repair Project (Declared State Of Emergency)
Projects of this action: Soledad Mountain Road AND Desert View Drive Alley

GENERAL CONSULTANT INFORMATION

Recommended Consultant: Hazard Construction Company (and)
Helenschmidt Geotechnical, Inc.

Amount of this Action: \$ 7,235,795 (Increase CIP Budget)
Cumulative: \$ 27,235,795

Funding Source: City of San Diego &
The Federal Highway Administration (FHWA) (partial grant funding) &
California Department Office of Emergency Services (OES) (partial grant funding)

Goals: Not applicable as was a "Declared State of Emergency"

BREAKDOWN:

Hazard Construction Company:

Original Amount: \$ 15,000,000
Cumulative: \$ 17,315,749 (\$2,315,749 increase)

Helenschmidt Geotechnical, Inc.

Original Amount: \$ 966,000
Cumulative: \$ 2,315,527 (\$1,349,527 increase)

CONSULTANT PARTICIPATION**This Action**

American Concrete. (Other)	\$ 85,000	1.17%
LSI Striping (Other)	\$ 25,000	0.35%
Valley Crest Landscaping (Other)	\$ 120,000	1.66%
The Land Stewards (Other)	\$ 162,000	2.24%
Wackenhut Security (Other)	\$ 240,000	3.32%
National Fence (Other)	\$ 10,000	0.14%
KTA (Other)	\$ 8,000	0.11%
So Cal Soil & Testing (Other)	\$ 75,000	1.04%
National Const. Rentals (Other)	\$ 10,000	0.14%
Video Fact (Other)	\$ 9,600	0.13%
San Diego Natural History (Other)	\$ 18,000	0.25%
Anderson (Other)	\$ 300,000	4.15%

Total Certified Participation	\$ 0	0.00%
Total Subcontractor Participation	\$ 1,062,600	14.69%

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

000538

Equal Opportunity Required

Hazard Construction Company submitted a Work Force Report for their San Diego County employees dated July 30, 2008 with a total of 97 employees in their Administrative Workforce and 73 employees in their Trade Workforce.

The Administrative Work Force indicates under representation in the following categories:

Black in Transportation

Hispanic in Management & Financial, Administrative Support and Transportation

Asian in Administrative Support

Filipino in Management & Financial, Professional and Administrative Support

Female in Management & Financial, Professional and Transportation

Hazard Construction was required to submit an EO Plan in April 1993, and again was required and submitted an approved EO Plan in August 1996. In August of 1997 Hazard Construction submitted an additional approved EO Plan. Hazard Construction continued to demonstrate under representations in numerous categories which resulted in an audit in May 2000 by the City and the Office of Federal Contract Compliance resulting in a letter of commitment. For future "non-Emergency" actions, the City will continue to work with and monitor EOC related measures taken by Hazard in an effort to improve their Workforce under-represented categories.

Helenschmidt Geotechnical, Inc. submitted a Work Force Report for their San Diego County employees dated November 13, 2008 with a total of 6 employees in their Administrative Workforce.

The firm has fewer than 15 employees and therefore, is exempt from the employment category goals.

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517)

ADDITIONAL COMMENTS

This action will authorize the appropriation and expenditure of additional funding in the amount of \$7,235,795 which increases the FY2009 CIP Budget (of which Hazard Construction Contract is increasing by \$2,315,749 and Helenschmidt Geotechnical, Inc. Contract is increasing by \$1,349,527). This action will also ratify prior Sole Source Agreement.

See memo dated 10/4/2007 – "The City Council just approved a resolution to establish a state of emergency regarding the Mt. Soledad event." Memo is from Tammy Rimes.


RLL

File: Admin WOFO 2000

Date WOFO Submitted: 11/13/2008
Input by: LadGoals reflect statistical labor force
availability for the following: 2000 CLFA
San Diego, CACity of San Diego/Equal Opportunity Contracting
WORK FORCE ANALYSIS REPORT

FOR

Company: Helenschmidt Geotechnical, Inc.

I. TOTAL WORK FORCE:

	Black			Hispanic			Asian			American Indian			Filipino			White			Other		
	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F		M	F		M	F
Mgmt & Financial	3.3%	0	0	11.9%	0	0	6.2%	0	0	0.4%	0	0	6.2%	0	0		0	0		0	0
Professional	4.0%	0	0	12.5%	0	0	6.5%	0	0	0.5%	0	0	6.5%	0	0		3	0		0	0
A&E, Science, Computer	2.8%	0	0	7.3%	0	0	16.2%	0	1	0.3%	0	0	16.2%	0	0		0	0		0	0
Technical	6.6%	0	0	14.8%	0	0	17.2%	0	0	0.4%	0	0	17.2%	0	0		0	0		0	0
Sales	3.9%	0	0	19.5%	0	0	6.8%	0	0	0.6%	0	0	6.8%	0	0		0	0		0	0
Administrative Support	7.0%	0	0	20.8%	0	0	8.8%	0	0	0.6%	0	0	8.8%	0	0		0	0		0	2
Services	5.5%	0	0	36.9%	0	0	9.7%	0	0	0.6%	0	0	9.7%	0	0		0	0		0	0
Crafts	4.5%	0	0	25.8%	0	0	9.1%	0	0	0.7%	0	0	9.1%	0	0		0	0		0	0
Operative Workers	4.3%	0	0	38.6%	0	0	20.8%	0	0	0.3%	0	0	20.8%	0	0		0	0		0	0
Transportation	8.1%	0	0	32.1%	0	0	4.5%	0	0	0.5%	0	0	4.5%	0	0		0	0		0	0
Laborers	4.4%	0	0	54.0%	0	0	4.1%	0	0	0.5%	0	0	4.1%	0	0		0	0		0	0
TOTAL		0	0		0	0		0	1		0	0		0	0		3	0		0	2

HOW TO READ TOTAL WORK FORCE SECTION:

The information blocks in Section 1 (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading of "CLFA Goals" are the County Labor Force Availability goals for each employment and ethnic/gender category.

Mgmt & Financial
Professional
A&E, Science, Computer
Technical
Sales
Administrative Support
Services
Crafts
Operative Workers
Transportation
Laborers

TOTAL EMPLOYEES:		
ALL	M	F
0	0	0
3	3	0
1	0	1
0	0	0
0	0	0
2	0	2
0	0	0
0	0	0
0	0	0
0	0	0
0	0	0
6	3	3

Female
Goals
39.8%
59.5%
22.3%
49.0%
49.4%
73.2%
62.3%
8.6%
36.7%
15.2%
11.1%

HOW TO READ EMPLOYMENT ANALYSIS SECTION:

The percentages listed in the goals column are calculated by multiplying the CLFA goals by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA goal. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

II. EMPLOYMENT ANALYSIS

TOTAL

6	3	3
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This firm has fewer than 15 employees and is, therefore, exempt from the employment category goals.

File: Admin WOFO 2000

Date WOFO Submitted: 7/30/2008

Input by: Lad

Goals reflect statistical labor force

availability for the following:

2000 CLFA

San Diego, CA

City of San Diego/Equal Opportunity Contracting

WORK FORCE ANALYSIS REPORT

FOR

Company: Hazard Construction Company

I. TOTAL WORK FORCE:

	CLFA Goals	Black		CLFA Goals	Hispanic		CLFA Goals	Asian		CLFA Goals	American Indian		CLFA Goals	Filipino		White		Other	
		M	F		M	F		M	F		M	F		M	F	M	F	M	F
Mgmt & Financial	3.3%	1	0	11.8%	2	0	6.2%	1	1	0.4%	0	0	6.2%	0	0	34	3	0	0
Professional	4.0%	0	0	12.6%	10	0	6.5%	1	0	0.5%	0	0	6.5%	0	0	13	0	0	0
A&E, Science, Computer	2.8%	0	0	7.3%	0	0	16.2%	0	0	0.3%	0	0	16.2%	0	0	0	0	0	0
Technical	6.6%	0	0	14.8%	0	0	17.2%	0	0	0.4%	0	0	17.2%	0	0	0	0	0	0
Sales	3.9%	0	0	19.5%	0	0	6.8%	0	0	0.6%	0	0	6.8%	0	0	0	0	0	0
Administrative Support	7.0%	0	0	20.8%	0	1	8.8%	0	0	0.6%	0	0	8.8%	0	0	2	9	0	0
Services	5.5%	0	0	36.9%	0	0	9.7%	0	0	0.6%	0	0	9.7%	0	0	0	0	0	0
Crafts	4.5%	0	0	25.8%	0	0	9.1%	0	0	0.7%	0	0	9.1%	0	0	0	0	0	0
Operative Workers	4.3%	0	0	38.8%	0	0	20.8%	0	0	0.3%	0	0	20.8%	0	0	0	0	0	0
Transportation	8.1%	0	0	32.1%	3	0	4.5%	1	0	0.5%	0	0	4.5%	0	0	13	1	0	0
Laborers	4.4%	0	0	54.0%	0	0	4.1%	0	0	0.5%	0	0	4.1%	0	0	1	0	0	0
TOTAL		1	0		15	1		3	1		0	0		0	0	63	13	0	0

HOW TO READ TOTAL WORK FORCE SECTION:

The information blocks in Section 1 (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading of "CLFA Goals" are the County Labor Force Availability goals for each employment and ethnic/gender category.

Mgmt & Financial
Professional
A&E, Science, Computer
Technical
Sales
Administrative Support
Services
Crafts
Operative Workers
Transportation
Laborers

TOTAL EMPLOYEES			Female Goals
ALL	M	F	
42	38	4	39.8%
24	24	0	59.5%
0	0	0	22.3%
0	0	0	49.0%
0	0	0	49.4%
12	2	10	73.2%
0	0	0	62.3%
0	0	0	8.6%
0	0	0	36.7%
18	17	1	15.2%
1	1	0	11.1%
TOTAL	97	82	15

HOW TO READ EMPLOYMENT ANALYSIS SECTION:

The percentages listed in the goals column are calculated by multiplying the CLFA goals by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA goal. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

II. EMPLOYMENT ANALYSIS -

	Black			Hispanic			Asian			American Indian			Filipino			Female		
	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy
Mgmt & Financial	1.39	1	N/A	5.00	2	(3.00)	2.60	2	N/A	0.17	0	N/A	2.60	0	(2.60)	16.72	4	(12.72)
Professional	0.96	0	N/A	3.02	10	6.98	1.56	1	N/A	0.12	0	N/A	1.56	0	(1.56)	14.28	0	(14.28)
A&E, Science, Computer	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Technical	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Sales	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Administrative Support	0.84	0	N/A	2.50	1	(1.50)	1.06	0	(1.06)	0.07	0	N/A	1.06	0	(1.06)	8.78	10	1.22
Services	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Crafts	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Operative Workers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Transportation	1.46	0	(1.46)	5.78	3	(2.78)	0.81	1	N/A	0.09	0	N/A	0.81	0	N/A	2.74	1	(1.74)
Laborers	0.04	0	N/A	0.54	0	N/A	0.04	0	N/A	0.01	0	N/A	0.04	0	N/A	0.11	0	N/A

Goals are set by job categories for each protected group. An underrepresentation is indicated by a negative number, but if the DISCREPANCY is less than -1.00 position, a N/A will be displayed to show there is no underrepresentation.

File: Trade WOFO 2000
Date: 07/30/08
Input by: Lad

City of San Diego / Equal Opportunity Contracting
CONSTRUCTION TRADE ANALYSIS REPORT

CLFA Data reflect statistical labor force availability for Construction Trade Employment in San Diego, CA
Company: *Hazard Construction Company*

I. TOTAL CRAFTS & TRADE WORK FORCE:

San Diego, CA County Labor Force Availability Goals

	Black			Hispanic			Asian			American Indian			Filipino			White		
	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	M	F	
Brick, Block or Stone Masons	1.4%	0	0	43.5%	0	0	1.0%	0	0	0.4%	0	0	1.0%	0	0	0	0	
Carpenters	2.3%	0	0	33.9%	2	0	1.7%	0	0	0.5%	0	0	1.7%	0	0	2	0	
Carpet, Floor & Tile Installers & Finishers	0.9%	0	0	40.2%	0	0	0.8%	0	0	0.3%	0	0	0.8%	0	0	0	0	
Cement Masons, Concrete Finishers	4.4%	0	0	67.6%	0	0	0.0%	0	0	0.4%	0	0	0.0%	0	0	0	0	
Construction Laborers	3.4%	3	0	50.8%	21	0	1.8%	0	0	0.8%	0	0	1.8%	0	0	8	0	
Drywall Installers, Ceiling Tile Installers	1.3%	0	0	55.5%	0	0	1.1%	0	0	0.2%	0	0	1.1%	0	0	0	0	
Electricians	5.8%	0	0	15.9%	0	0	7.6%	0	0	0.5%	0	0	7.6%	0	0	0	0	
Elevator Installers and Repairers	0.0%	0	0	5.9%	0	0	0.0%	0	0	0.0%	0	0	0.0%	0	0	0	0	
First-Line Supervisors/Managers	1.0%	0	0	20.7%	0	0	2.0%	0	0	0.9%	0	0	2.0%	0	0	0	0	
Glaziers	1.8%	0	0	24.5%	0	0	0.0%	0	0	0.0%	0	0	0.0%	0	0	0	0	
Helpers, Construction Trades	0.0%	0	0	46.2%	0	0	5.2%	0	0	0.8%	0	0	6.2%	0	0	0	0	
Millwrights	0.0%	0	0	31.3%	0	0	12.5%	0	0	0.0%	0	0	12.5%	0	0	0	0	
Misc. Const. Equipment Operators	4.3%	2	0	19.7%	19	0	0.0%	0	0	1.6%	2	0	0.0%	0	0	13	1	
Painters, Construction & Maintenance	3.0%	0	0	45.7%	0	0	3.2%	0	0	1.1%	0	0	3.2%	0	0	0	0	
Pipelayers, Plumbers, Pipe & Steam Fitters	4.0%	0	0	29.2%	0	0	2.1%	0	0	0.6%	0	0	2.1%	0	0	0	0	
Plasterers and Stucco Masons	5.4%	0	0	66.9%	0	0	0.0%	0	0	3.4%	0	0	0.0%	0	0	0	0	
Roofers	1.2%	0	0	55.7%	0	0	0.6%	0	0	0.9%	0	0	0.6%	0	0	0	0	
Security Guards & Surveillance Officers	17.3%	0	0	20.2%	0	0	6.8%	0	0	0.6%	0	0	6.8%	0	0	0	0	
Sheet Metal Workers	3.8%	0	0	25.4%	0	0	5.1%	0	0	0.9%	0	0	5.1%	0	0	0	0	
Structural Metal Fabricators & Fitters	0.0%	0	0	26.3%	0	0	0.0%	0	0	0.0%	0	0	0.0%	0	0	0	0	
Welding, Soldering & Brazing Workers	4.5%	0	0	47.5%	0	0	10.0%	0	0	1.2%	0	0	10.0%	0	0	0	0	
Workers, Extractive Crafts, Miners	2.6%	0	0	32.4%	0	0	2.4%	0	0	0.8%	0	0	2.4%	0	0	0	0	
TOTAL		5	0		42	0		0	0		2	0		0	0		23	1

How to Read Total Work Force Section:

The information blocks in Section 1 (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading CLFA Data are the County Labor Force Availability (CLFA) data for each employment and ethnic/gender category.

- Brick, Block or Stone Masons**
- Carpenters**
- Carpet, Floor & Tile Installers & Finishers**
- Cement Masons, Concrete Finishers**
- Construction Laborers**
- Drywall Installers, Ceiling Tile Installers**
- Electricians**
- Elevator Installers and Repairers**
- First-Line Supervisors/Managers**
- Glaziers**
- Helpers, Construction Trades**
- Millwrights**
- Misc. Const. Equipment Operators**
- Painters, Construction & Maintenance**
- Pipelayers, Plumbers, Pipe & Steam Fitters**
- Plasterers and Stucco Masons**
- Roofers**
- Security Guards & Surveillance Officers**
- Sheet Metal Workers**
- Structural Metal Fabricators & Fitters**
- Welding, Soldering & Brazing Workers**
- Workers, Extractive Crafts, Miners**

TOTAL EMPLOYEES			Female Goals
ALL	M	F	
0	0	0	1.0%
4	4	0	2.2%
0	0	0	1.7%
0	0	0	1.5%
32	32	0	2.8%
0	0	0	1.5%
0	0	0	4.2%
0	0	0	0.0%
0	0	0	2.7%
0	0	0	0.0%
0	0	0	0.8%
0	0	0	0.0%
37	36	1	3.2%
0	0	0	6.0%
0	0	0	1.9%
0	0	0	1.4%
0	0	0	0.9%
0	0	0	14.9%
0	0	0	3.2%
0	0	0	0.0%
0	0	0	10.9%
0	0	0	2.8%

How to Read Construction Crafts & Trade Work Form Analysis:

The percentages listed in the goals column are calculated by multiplying the CLFA data by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA data. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

II. CONSTRUCTION CRAFTS & TRADE WORK FORCE ANALYSIS:

[illegible]

000545 REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO		1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY) 331 03/10	
TO: CITY ATTORNEY		2. FROM (ORIGINATING DEPARTMENT): ENGINEERING & CAPITAL PROJECTS	
		3. DATE: November 7, 2008	
4. SUBJECT: SOLEDAD MOUNTAIN ROAD EMERGENCY ROAD REPAIR PROJECT			
5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.) Marnell Gibson 533-5213 MS908A		6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.) Jamal Batta 533-7482 MS908A	
7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED <input type="checkbox"/>			
8. COMPLETE FOR ACCOUNTING PURPOSES			
FUND	G.N. 38919	30300	
DEPT.		30244	
ORGANIZATION		107	
OBJECT ACCOUNT	9544	4279	
JOB ORDER		590210	
C.I.P. NUMBER		59-021.0	
AMOUNT	\$4,481,459	\$829,336	
9. ADDITIONAL INFORMATION / ESTIMATED COST: <div style="text-align: right; margin-top: 20px;">Amount for this Request: \$5,310,795</div>			
10. ROUTING AND APPROVALS			
ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT		12/30/08
2	EAS		1/5/09
3	EOCP		1/6/09
4	COUNCIL LIAISON		1/12/09
5	CIP/FM		1/26/09
6	COMPTROLLER		2/10/09
7	DEPUTY CHIEF		2/10/09
8	COO		2/11/09
9	PURCHASING AND CONTRACTING		2/17/09
10	CITY ATTORNEY		2/24/09
11	ORIG. DEPT		2/25/09
		DOCKET COORD: _____ COUNCIL LIAISON:	
		COUNCIL PRESIDENT:	
		<input type="checkbox"/> SPOB CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 3-10-09	
11. PREPARATION OF: <input checked="" type="checkbox"/> RESOLUTIONS <input type="checkbox"/> ORDINANCE(S) <input type="checkbox"/> AGREEMENT(S) <input type="checkbox"/> DEED(S)			
1. Authorizing total expenditures in the Soledad Mountain Road and Desert View Alley repair projects (CIP 52-805.0) in the amount of \$27,235,975; and <div style="text-align: right;">(Continued)</div>			
11A. STAFF RECOMMENDATIONS: Adopt the resolutions			
12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.) COUNCIL DISTRICT(S): 2 COMMUNITY AREA(S): La Jolla ENVIRONMENTAL IMPACT: This activity is statutorily exempt from CEQA pursuant to State CEQ Guidelines, Section 15269(a). HOUSING IMPACT: N/A ATTACHMENTS:			

2. Authorizing the increase to the Fiscal Year 2009 Capital Improvements Program Budget in an amount not to exceed \$4,481,459, Fund 38919, in CIP 52-805.0, Soledad Mountain Road Emergency Repair, contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer, and;
3. Authorizing the acceptance, appropriation and expenditure of an amount not to exceed \$4,481,459, Fund 38919, for a total not to exceed \$24,481,459 from grant funding sources for the completion of CIP 52-805.0, Soledad Mountain Road Emergency Repair, contingent upon the City Comptroller certifying fund availability; and
4. Ratifying a sole source consultant agreement with Helenschmidt Geotechnical, Inc. for the Soledad Mountain Road Repair project in the amount of \$966,000, contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer; and
5. Ratifying the First Amendment to the Agreement with Helenschmidt Geotechnical, Inc. (C-14840-1) for the Soledad Mountain Road Repair project in the amount of \$536,500, contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer; and
6. Ratifying the Second Amendment to the Agreement with Helenschmidt Geotechnical, Inc. (C-14840-2) for the Soledad Mountain Road Repair project in the amount of \$813,027, contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer; and
7. Authorizing the increase to the construction contract with Hazard Construction Company in the amount of \$2,315,749 of which \$1,386,425 is for the Soledad Mountain Road Repair project and \$929,324 is for the Desert View Drive Alley repair project, contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer; and
8. Authorizing the expenditure of \$1,386,425, Fund 38919, FHWA, CIP 52-805.0, Soledad Mountain Road, for the construction contract with Hazard Construction Company, contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer; and
9. Authorizing the expenditure of \$929,324, Fund 18903, OES, CIP 52-805.0, Desert View Drive Alley (job order 528051) for the construction contract with Hazard Construction Company contingent upon the City Comptroller first certifying that funds are, or will be, on deposit with the City Treasurer; and
10. Authorizing the transfer of current and prior year general fund expenditures in job order 992019, Soledad Mountain Road, in an amount not to exceed \$1,500,000 to CIP 52-805.0, Soledad Mountain Road Repair; and
11. Authorizing the appropriation and expenditure of \$2,000,000, Fund 30307, Prop. 42, CIP 52-805.0, Soledad Mountain Road Repair, as the City's matching funds to the grant, and;
12. Authorizing the transfer of \$829,336, Fund 30300, TransNet, from CIP 59-021.0, Transportation Grant Matches, to CIP 52-805.0, Soledad Mountain Road Repair, to provide the City's grant match, contingent upon the City Comptroller certifying fund availability; and
13. Authorizing the appropriation and expenditure of \$829,336, Fund 30300, TransNet, CIP 52-805.0, Soledad Mountain Road Repair, for the purpose of design, construction and related project costs; and
14. Authorizing the City Comptroller to return excess budgeted funds, if any, to the appropriate reserves.

REPORT TO THE CITY COUNCIL
EXECUTIVE SUMMARY SHEET

DATE REPORT ISSUED: November 5, 2008 REPORT NO.:
ATTENTION: Council President and City Council
ORIGINATING DEPT.: Engineering and Capital Projects
SUBJECT: SOLEDAD MOUNTAIN ROAD EMERGENCY REPAIR
PROJECT
COUNCIL DISTRICT: 2
STAFF CONTACT: Marnell Gibson 619-533-5213 or Jamal Batta 619-533-7482

REQUESTED ACTION:

- Authorize increase to CIP budget
- Ratify sole source consultant agreement
- Authorize amendments to the consultant agreement
- Authorize an increase to the construction contract
- Authorize transfer of general fund expenses to grant fund

STAFF RECOMMENDATION:

Approve the resolution.

EXECUTIVE SUMMARY:

On October 3, 2007, a landslide occurred along the 5700 block of Soledad Mountain Road. On October 5, 2007, by Resolution R-303041, the City Council declared a state of emergency for the site. On December 18, 2007, by Resolution R-303265, the City Council authorized the Mayor to enter into contracts with consultants and contractors to repair the landslide and to apply for any available state and federal grant funding. The City initially estimated the landslide repair cost at \$20 million. All grant and contract authorizations were based on this preliminary estimate. However, during the course of construction, results of geotechnical investigations and subsequent damage assessments have resulted in a revised estimate of \$27,235,795.

Due to the emergency nature of the project, the City sole sourced a geotechnical consulting contract to Helenschmidt Geotechnical Inc. for \$966,000 and a construction contract to Hazard Construction Company for \$15 million to immediately start evaluation and construction activities. In order to proceed with the emergency work, temporary funding was identified until such time that state and federal funding were approved for the project and reimbursements were received. Accordingly, on December 18, 2007, Resolution R-303265, and on June 25, 2008, R-303894, the City Council approved \$7.5 million and 2.27 million, respectively, to partially fund the emergency construction.

Immediately after the landslide occurred, staff applied for state and federal funding for the project to repair the landslide area and restore the roadways. The final estimated costs to repair Soledad Mountain Road and the Desert View Drive Alley are approximately \$18.235 million and \$9 million, respectively. The Federal Highway Administration (FHWA) and the California Office of Emergency Services (OES) approved funding for the project. The FHWA, OES and City cost shares are based on a pre-established formula. FHWA will pay 100% of the cost incurred in the first 180 days of the Soledad Mountain Road repair, and 88.5% thereafter. The State will pay 75% of the portion that is not paid by FHWA to complete the Soledad Mountain

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REPORT TO THE CITY COUNCIL
EXECUTIVE SUMMARY SHEET

Road repair. As to the repair of the alley, the State will pay 75% and the City is responsible for the remaining 25% of the cost. The City's share to complete the project (the road and the alley) is estimated at \$2,829,336 of which \$2,000,000 has been appropriated in the project and this action will appropriate the remaining \$829,336. In addition, this action will increase the construction contract by \$2,310,000 and the consultant contract by \$1,349,527. This action also requests to increase the previously approved grant ceiling level for the project by \$4,481,459 to a total of \$24,481,459. These amounts then will match the revised cost estimate and the grant submittal approved by FHWA and OES.

The Soledad Mountain Road repair was substantially completed and the road was re-opened for traffic on October 16, 2008. It is anticipated that the repair will be completed in the second quarter of 2009, including repair and reopening of Desert View Drive Alley.

The request to ratify the project contracts is pursuant to San Diego Municipal Code Chapter 2, Section 22.3212, "Contracts Not Required to be Competitively Bid", Subsection C, "A contract to remedy an emergency that affects public health or safety,".

FISCAL CONSIDERATIONS:

Prior City Council action (R-303265) authorized the appropriation and expenditure of grant funds in an amount not to exceed \$20,000,000 for the Soledad Mountain Road Repair project. This action will increase the authorization, appropriation and expenditure of funds in the project to \$27,235,795, as reflected in FHWA and OES grant approvals.

PREVIOUS COUNCIL / COMMITTEE ACTION:

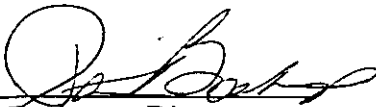
- Resolution 303041, dated October 4th, 2007, the City of San Diego declared a state of emergency related to the landslide
- Resolution 303265, dated December 18, 2007, Soledad Mountain Road Repair added to Capital Improvement Program as CIP 52-805.0; appropriated funds for construction; ratified construction contract; authorized the Mayor or designee to apply for grant funding for the project
- Resolution 303894, dated June 28, 2008 increased budget of CIP 52-805.0 by \$2,270,000

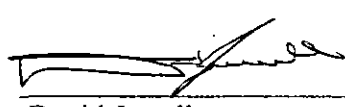
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community outreach efforts are continuous to keep the residents in the area informed about the landslide situation.

KEY STAKEHOLDERS:

- The State of California
- Community members
- Hazard Construction Company
- Helenschmidt Geotechnical, Inc.


Patti Boekamp, Director
Engineering and Capital Projects


David Jarrell
Deputy Chief Public Works

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The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

AC 2900583
 ORIGINATING
 DEPT. NO.: 547

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \$5,310,795.00 Fund: 38919

Purpose: _____

Date: February 10, 2009 By: James Long

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
001	0	38919			9544					\$4,481,459.00
002	0	30244	30244	107	4279	590210		30300		829,336.00
TOTAL AMOUNT										\$5,310,795.00

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: _____

Vendor: _____

Purpose: _____

Date: _____ By: James Long

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE CITY COUNCIL RATIFYING SOLE
SOURCE CONTRACT; TRANSFERRING AND EXPENDING
FUNDS; AND TAKING RELATED ACTIONS IN CONNECTION
WITH REPAIRS TO ROADS DAMAGED BY THE LANDSLIDE
ON MOUNT SOLEDAD .

WHEREAS, on October 5, 2007, the City Council ratified the Mayor's declaration of a
State of Local Emergency due to the landslide on Soledad Mountain Road in Resolution No. R-
303041; and

WHEREAS, on December 4, 2007, the City Council authorized the expenditure of \$20
million to repair damage caused by the landslide on Soledad Mountain Road in Resolution No.
R-303265; and

WHEREAS, Soledad Mountain Road was re-opened for traffic on October 16, 2008, and
repairs to Desert View Drive are continuing; and

WHEREAS, the City is receiving financial assistance from the state and federal
governments to complete repairs to roads damaged by the landslide on Mount Soledad Road; and

WHEREAS, the total estimated cost for completion of repairs is \$27,235,795, which
exceeds the amount currently authorized by City Council; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the Council hereby authorizes total expenditures for the Soledad Mountain Road
and Desert View Drive Repair Projects, CIP 52-805.0, in an amount not to exceed \$27,235,975.

2. That an increase to the Fiscal Year 2009 Capital Improvements Program budget is authorized by the amount not to exceed \$4,481,459 in Fund No. 38919, CIP 52-805.0, Soledad Mountain Road Emergency Repair.

3. That the City Comptroller is further authorized to accept, appropriate, and expend an additional amount not to exceed \$4,481,459 from Fund No. 38919, CIP 52-805.0, Soledad Mountain Road Emergency Repair, bringing the total not to exceed amount to \$24,481,459 from grant funding sources.

4. That the City Council ratifies the sole source consultant agreement with Helenschmidt Geotechnical, Inc. and the amendments thereto, on file with the City Clerk as Document Nos. C-14414, C-14840-1, and C-14840-2, for the Soledad Mountain Road Emergency Repair Project, in the total amount of \$2,315,527 for geotechnical consultant services related to the repair of damage caused by the landslide on Mount Soledad Road.

5. That the City Council authorizes the Mayor or his designee to negotiate and execute one or more amendments to the construction contract with Hazard Construction Company in a cumulative amount not to exceed \$2,315,749 consisting of \$1,386,425 for the repair of Soledad Mountain Road and \$929,324 for the repair of Desert View Drive; provided that the City Comptroller first furnishes one or more certificates demonstrating that the funds necessary for this expenditure are, or will be, on deposit with the City Treasurer.

6. That the expenditure of an amount not to exceed \$1,386,425 from Fund No. 38919, FHWA, CIP 52-805.0, Soledad Mountain Road Emergency Repair, is authorized, solely and exclusively to provide funds for the construction contract with Hazard Construction Company; provided that the City Comptroller furnishes one or more certificates demonstrating that the funds necessary for this expenditure are, or will be, on deposit with the City Treasurer.

7. That the expenditure of an amount not to exceed \$929,324 from Fund No. 18903, OES, CIP 52-805.0, Desert View Drive Alley (Job Order 528051), is authorized, solely and exclusively to provide funds for the contract with Hazard Construction Company; provided that the City Comptroller furnishes one or more certificates demonstrating that the funds necessary for this expenditure are, or will be, on deposit with the City Treasurer.

8. That the City Comptroller is authorized to transfer current and prior year General Fund expenditures in an amount not to exceed \$1,500,000 from Job Order 992019, Soledad Mountain Road, to CIP 52-805.0, Soledad Mountain Road Repair.

9. That the City Comptroller is further authorized to appropriate and expend an amount not to exceed \$2,000,000 from Fund No. 30307, Prop 42, CIP 52-805.0, Soledad Mountain Road Repair, solely and exclusively to provide the City's matching grant funds.

10. That the City Comptroller is further authorized to transfer an amount not to exceed \$829,336 from Fund No. 30300, TransNet, CIP 59-021.0, Transportation Grant Matches, to CIP 52-805.0, Soledad Mountain Road Repair, solely and exclusively to provide the City's matching grant funds, provided that the City Comptroller furnishes one or more certificates demonstrating that the funds necessary for this transfer are, or will be, on deposit with the City Treasurer.

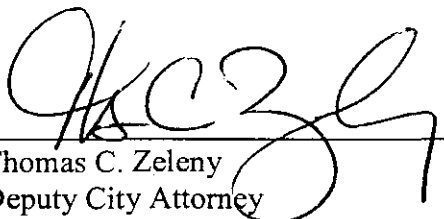
11. That the City Comptroller is further authorized to appropriate and expend an amount not to exceed \$829,336 from CIP 52-805.0, Soledad Mountain Road Repair, solely and exclusively for design, construction, and related project costs.

12. That the City Comptroller is further authorized to transfer excess budgeted funds, if any, to the appropriate reserves on advice of the administering department.

13. That the above activities are statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15269(a) as activities taken to maintain,

repair, restore, demolish, or replace property or facilities damaged or destroyed as the result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Thomas C. Zeleny
Deputy City Attorney

TCZ:mb
02/24/09
Cert.No:2900583
Or.Dept:Eng&CP
R-2009-907

I hereby certify that the foregoing Resolution was passed by the Council of the City of Diego,
at its meeting of _____.

ELIZABETH S. MALAND, City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

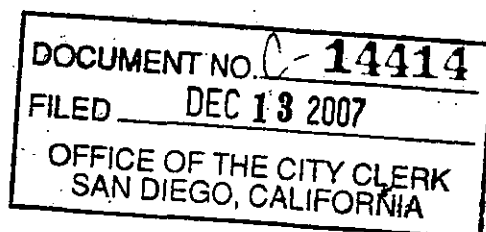
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COPY **DUPLICATE ORIGINAL**

CAPITAL IMPROVEMENTS
FOR
THE CITY OF SAN DIEGO
ENGINEERING AND CAPITAL PROJECTS DEPARTMENT

AGREEMENT
FOR
SOLEDAD MOUNTAIN ROAD LANDSLIDE REPAIR
(FEDERAL VERSION)

THE CITY OF SAN DIEGO
AND
HELENSCHMIDT GEOTECHNICAL INC.
CONTRACT NUMBER: H084234



Updated: 11-02-07

**AGREEMENT BETWEEN THE CITY
OF SAN DIEGO AND HELENSCHMIDT GEOTECHNICAL INC.
FOR CONSULTING SERVICES
(FEDERAL VERSION)**

THIS Agreement is made and entered into between the City of San Diego, a municipal corporation [City], and **HELENSCHMIDT GEOTECHNICAL INC.** [Consultant] for the Consultant to provide Professional Services to the City on Soledad Mountain Road Landslide Repair [Project].

RECITALS

The City wants to retain the services of a professional firm to provide geotechnical engineering design services [Professional Services].

The Consultant represents that it has the expertise, experience and personnel necessary to provide the Professional Services for the Project.

The City and the Consultant [Parties] want to enter into an Agreement whereby the City will retain the Consultant to provide, and the Consultant shall provide, the Professional Services for the Project [Agreement].

In consideration of the above recitals and the mutual covenants and conditions set forth, herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby set forth their mutual covenants and understandings as follows:

ARTICLE I

PROFESSIONAL SERVICES

The above-listed recitals are true and correct and are hereby incorporated by reference.

1.1 Scope of Services. The Consultant shall perform Professional Services as set forth in the written Scope of Services [Exhibit A] at the direction of the City.

1.2 Contract Administrator. The Engineering and Capital Projects Department is the contract administrator for this Agreement. The Consultant shall provide Professional Services under the direction of a designated representative of the Engineering and Capital Projects Department. The City's designated representative will communicate with the Consultant on all matters related to the administration of this Agreement and the Consultant's performance of the Professional Services rendered hereunder. When this Agreement refers to communications to or with the City, those communications will be with the designated representative, unless the designated representative or the Agreement specifies otherwise. Further, when this Agreement

refers to an act or approval to be performed by City, that act or approval shall be performed by the Mayor, *Engineering and Capital Projects* Department Director, or designee, unless the Agreement specifies otherwise.

1.3 City Modification of Scope of Services. The City may, without invalidating this Agreement, order changes in the Scope of Services by altering, adding to or deducting from the Professional Services to be performed. All such changes shall be in writing and shall be performed in accordance with the provisions of this Agreement. If any such changes cause an increase or decrease in the Consultant's cost of, or the time required for, the performance of any of the Professional Services, the Consultant shall immediately notify the City, and any such increase or decrease must be approved in writing by the City. If the City deems it appropriate, an equitable adjustment to the Consultant's compensation may be made, provided that any adjustment must be approved by both Parties in writing.

1.4 Written Authorization. RESERVED

1.5 Confidentiality of Services. All Professional Services performed by the Consultant, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to the Consultant, at the time that it was disclosed to the Consultant by the City, (b) subsequently becomes publicly known through no act or omission of the Consultant, or (c) otherwise becomes known to the Consultant other than through disclosure by the City except for Subconsultants, covered by Section 4.4, neither the documents nor their contents shall be released to any third party without the prior written consent of the City.

1.6 Competitive Bidding. The Consultant shall ensure that any plans and specifications prepared, required, or recommended under this Agreement allow for competitive bidding. The Consultant shall design such plans or specifications so that procurement of services, labor or materials are not available from only one source, and shall not design plans and specifications around a single or specific product, piece of major equipment or machinery, a specific patented design, or a proprietary process, unless required by principles of sound engineering practice and supported by a written justification that has been approved in writing by the City. The Consultant shall submit this written justification to the City prior to beginning work on such plans or specifications. Whenever the Consultant recommends a specific product or equipment for competitive procurement, such recommendation shall include at least two brand names of products that are capable of meeting the functional requirements applicable to the Project.

ARTICLE II

DURATION OF AGREEMENT

2.1 Term of Agreement. This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and it shall be effective until completion of the Scope of Services.

2.2 Time of Essence. Time is of the essence for this Agreement. The time for performance of the Scope of Services is set forth in the Time Schedule.

2.3 Notification of Delay. The Consultant shall immediately notify the City in writing if the Consultant experiences or anticipates experiencing a delay in performing the Professional Services within the time frames set forth in the Time Schedule (Exhibit C). The written notice shall include an explanation of the cause for, and a reasonable estimate of the length of the delay. If in the opinion of the City, the delay affects a material part of the Project, the City may exercise its rights under Sections 2.5-2.7 of this Agreement, if applicable.

2.4 Delay. If delays in the performance of the Professional Services are caused by unforeseen events beyond the control of the Parties, such delay may entitle the Consultant to a reasonable extension of time, but such delay shall not entitle the Consultant to damages or additional compensation. Any such extension of time must be approved in writing by the City. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the Consultant's work; inability to obtain materials, equipment or labor; required additional Professional Services; or other specific reasons agreed to between the City and the Consultant; provided, however, that: (a) this provision shall not apply to, and the Consultant shall not be entitled to an extension of time for, a delay caused by the acts or omissions of the Consultant; and (b) a delay caused by the inability to obtain materials, equipment, or labor shall not entitle the Consultant to an extension of time unless the Consultant furnishes the City, in a timely manner, documentary proof satisfactory to City of the Consultant's inability to obtain materials, equipment, or labor.

2.5 City's Right to Suspend for Convenience. The City may, at its sole option and for its convenience, suspend all or any portion of the Consultant's performance of the Professional Services, for a reasonable period of time not to exceed six months. In accordance with the provisions of this Agreement, the City will give written notice to the Consultant of such suspension. In the event of such a suspension, in accordance with the provisions of Article III of this Agreement, the City shall pay to the Consultant a sum equivalent to the reasonable value of the Professional Services the Consultant has performed up to the date of suspension. Thereafter, the City may rescind such suspension by giving written notice of rescission to the Consultant. The City may then require the Consultant to resume performance of the Professional Services in compliance with the terms and conditions of this Agreement; provided, however, that the Consultant shall be entitled to an extension of time equal to the length of the suspension, unless otherwise agreed to in writing by the Parties.

2.6 City's Right to Terminate for Convenience. The City may, at its sole option and for its convenience, terminate all or any portion of the Professional Services agreed to pursuant to this Agreement by giving written notice of such termination to the Consultant. Such notice shall be delivered by certified mail with return receipt for delivery to the City. The termination of the Professional Services shall be effective upon receipt of the notice by the Consultant. After

termination of this Agreement, the Consultant shall complete any and all additional work necessary for the orderly filing of documents and closing of the Consultant's Professional Services under this Agreement. For services rendered in completing the work, the Consultant shall be entitled to reasonable compensation for the Professional Services performed by the Consultant before the effective date of termination. After filing of documents and completion of performance, the Consultant shall deliver to the City all drawings, plans, calculations, specifications and other documents or records related to both the Project and to the Consultant's Professional Services on the Project. By accepting payment for completion, filing and delivering documents as called for in this paragraph, the Consultant discharges the City of all of the City's payment obligations and liabilities under this Agreement.

2.7 City's Right to Terminate for Default. If the Design Professional fails to satisfactorily perform any obligation required by this Agreement, the Design Professional's failure constitutes a Default. A Default includes the Design Professional's failure to adhere to the Time Schedule. If the Design Professional fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the Design Professional, and any person claiming any rights by or through the Design Professional under this Agreement. The rights and remedies of the City enumerated in this Section are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Design Professional

2.8 Consultant's Right to Terminate for Default. If the City fails to satisfactorily perform any obligation required by this Agreement, the City's failure constitutes a Default. A Default includes the City's failure to adhere to the Time Schedule. If the City fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the Consultant specifying the nature of the Default, the Consultant may immediately cancel and/or terminate this Agreement, and terminate each and every right of the City, and any person claiming any rights by or through the City under this Agreement. The rights and remedies of the Consultant enumerated in this Section are cumulative and shall not limit, waive, or deny any of the Consultant's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the Consultant against the City

2.9 Compensation Upon Termination for Default. Upon termination for default by either the City or the Consultant, the Consultant shall be entitled to reasonable compensation per the terms of this agreement, as set forth in Exhibit B hereto, up to the date of termination. The City may reduce such compensation by the amount of the City's reasonable, good faith estimate of the City's damages caused by any default by the Consultant, if any.

ARTICLE III COMPENSATION

3.1 Amount of Compensation. The City shall pay the Consultant for performance of all Professional Services rendered in accordance with this Agreement, including reasonably related expenses, in an amount not to exceed \$966,000. The compensation for the Scope of Services shall not exceed \$920,000 and the compensation for Additional Services (described in Section 3.3), if any, shall not exceed \$46,000.

3.2 Manner of Payment. The City shall pay the Consultant in accordance with the Compensation and Fee Schedule. For the duration of this Agreement, the Consultant shall not be entitled to fees, including fees for expenses, that exceed the amounts specified in the Compensation and Fee Schedule. The Consultant shall submit one invoice per calendar month in a form acceptable to City in accordance with the Compensation and Fee Schedule. The Consultant shall include with each invoice a description of completed Professional Services, reasonably related expenses, if any, and all other information, including but not limited to: the progress percentage of the Scope of Services and/or deliverables completed prior to the invoice date, as required by the City. The City will pay undisputed portions of invoices within thirty calendar days of receipt.

3.3 Additional Services. The City may require that the Consultant perform additional Professional Services beyond those described in the Scope of Services [Additional Services]. Prior to the Consultant's performance of Additional Services, the City and the Consultant must agree in writing upon a fee for the Additional Services, including reasonably related expenses, in accordance with the Compensation and Fee Schedule. The City will pay the Consultant for the performance of Additional Services in accordance with Section 3.2.

3.4 Additional Costs. RESERVED

3.5 Eighty Percent Notification. The Consultant shall promptly notify the City in writing of any potential cost overruns. Cost overruns include, but are not limited to the following: (1) where anticipated costs to be incurred in the next sixty calendar days, when added to all costs previously incurred, will exceed eighty percent of the maximum compensation for this Agreement; or (2) where the total cost for performance of the Scope of Services appears that it may be greater or less than the maximum compensation for this Agreement.

ARTICLE IV

CONSULTANT'S OBLIGATIONS

4.1 Industry Standards. The Consultant agrees that the Professional Services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent professional Geotechnical firm using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval by the City, the City Manager, or other representatives of the City is required, it is understood to be general approval only and does not relieve the Consultant of responsibility for complying with all applicable laws, codes, and good consulting practices.

4.2 Right to Audit.

4.2.1 Access. The City retains the right to review and audit, and the reasonable right of access to Consultant's and any Subconsultant's premises to review and audit Consultant's compliance with the provisions of this Agreement [City's Right]. The City's Right includes the right to inspect and photocopy same, and to retain copies, outside of Consultant's premises, of any and all Project-related records with appropriate safeguards, if such retention is deemed necessary by the City in its sole discretion. This information shall be kept by the City in the strictest confidence allowed by law.

4.2.2 Audit. The City's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the City determines is necessary to discover and verify that the Consultant is in compliance with all requirements under this Agreement.

4.2.2.1 Cost Audit. If there is a claim for additional compensation or for Additional Services, the City's Right includes the right to examine, upon reasonable written notice, books, records, documents, and any and all other evidence and accounting procedures and practices that the City determines is necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

4.2.2.1.1 Accounting Records. The Consultant and all Subcontractors shall maintain complete and accurate records in accordance with Generally Accepted Accounting Practices in the industry. Upon reasonable written notice, the Consultant and Subcontractors shall make available to the City for review and audit; all Project related accounting records and documents, and any other financial data. Upon the City's request, the Consultant and Subcontractors shall submit exact duplicates of originals of all requested records to the City. Labor and expenses for production of documents outside normal invoice detail shall be reimbursed to the Consultant at the rates indicated in Exhibit B.

4.2.3 City's Right Binding on Subconsultants. The Consultant shall include the City's Right as described in Section 4.2, in any and all of their subcontracts, and shall ensure that these sections are binding upon all Subconsultants.

4.2.4 Compliance Required before Mediation or Litigation. A condition precedent to proceeding with mandatory mediation provided for in Article VII is the Consultant's full compliance with the provisions of this Section 4.2 within sixty days of the date on which the City mailed a written request to review and audit compliance.

4.3 Insurance. The Consultant shall not begin the Professional Services under this Agreement until it has: (a) obtained, and provided to the City, insurance certificates and endorsements reflecting evidence of all insurance required in Article IV, Section 4.3.1; however, the City reserves the right to request, and the Consultant shall submit, copies of any policy upon reasonable request by the City; (b) obtained City approval of each company or companies as required by Article IV, Section 4.3.2; and (c) confirmed that all policies contain the specific provisions required in Article IV, Section 4.3.4. Except as provided for under California law, all policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material

element of this Agreement and Consultant's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of contract by the City. To the extent that the Consultant may be required to indemnify the City for liabilities arising out of the performance of this agreement, such indemnification shall be limited to the remaining policy limits specified herein.

Further, the Consultant shall not modify any policy or endorsement thereto which increases the City's exposure to loss for the duration of this Agreement.

4.3.1 Types of Insurance. At all times during the term of this Agreement, the Consultant shall maintain insurance coverage as follows:

4.3.1.1 Commercial General Liability. Commercial General Liability (CGL) Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$2,000,000 per occurrence and subject to an annual aggregate of \$4,000,000. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. ~~All defense costs shall be outside the limits of the policy.~~ *SLA*

4.3.1.2 Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, the Consultant shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

4.3.1.3 Workers' Compensation. For all of the Consultant's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Consultant shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employers' liability coverage, and the Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

4.3.1.4 Architects & Engineers Professional Liability. For all of the Consultant's employees who are subject to this Agreement, the Consultant shall keep in full force and effect, Professional Liability coverage for professional liability with a limit of \$1 million per claim and \$1 million annual aggregate. The Consultant shall ensure both that: (1) the policy retroactive date is on or before the date of commencement of the Project; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Project or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss.

4.3.2 Deductibles. All deductibles on any policy shall be the responsibility of the Consultant and shall be disclosed to the City at the time the evidence of insurance is

provided.

4.3.3 Acceptability of Insurers.

4.3.3.1 Except for the State Compensation Insurance Fund, all insurance required by this Contract or in the Special General Conditions shall only be carried by insurance companies with a rating of at least "A-, VT" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the City.

4.3.3.2 The City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

4.3.4 Required Endorsements.

The following endorsements to the policies of insurance are required to be provided to the City before any work is initiated under this Agreement.

4.3.4.1 Commercial General Liability Insurance Endorsements.

ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.

PRIMARY AND NON-CONTRIBUTORY COVERAGE. The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of Consultant's insurance and shall not contribute to it.

CANCELLATION. Except as provided for under California Law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the City at the address specified in Section 9.1 "Notices."

SEVERABILITY OF INTEREST. The policy or policies must be endorsed to provide that the Consultant's insurance shall apply separately to each insured against whom claim is made or suit is bought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

4.3.4.2 Automobile Liability Insurance Endorsements

ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobile owned, leased, hired or borrowed by or on behalf of the Consultant.

CANCELLATION. Except as provided for under California Law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payments of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the City at the address specified in Section 9.1 "Notices."

SEVERABILITY OF INTEREST. The policy or policies must be endorsed to provide that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

4.3.4.3 Worker's Compensation and Employer's Liability Insurance Endorsements.

CANCELLATION. Except as provided for under California law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the City at the address specified in Section 9.1 "Notices."

WAIVER OF SUBROGATION. The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for the City.

4.3.4.4 Architects & Engineers Professional Liability Insurance.

CANCELLATION. Except as provide for under California Law, the policy or policies must be endorsed to provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Such notice shall be addressed to the City at the address specified in Section 9.1 "Notices."

4.3.5 Reservation of Rights. The City reserves the right, from time to time, to review the Consultant's insurance coverage, limits, deductible and self-insured retentions to determine if they are acceptable to the City. The City will reimburse the Consultant for the cost of the additional premium for any coverage requested by the City in excess of that required by this Agreement without overhead, profit, or any other markup.

4.3.6 Additional Insurance. The Consultant may obtain additional insurance not required by this Agreement.

4.3.7 Excess Insurance. All policies providing excess coverage to the City shall follow the form of the primary policy or policies including but not limited to all endorsements.

4.4 Subcontractors. The Consultant's hiring or retaining of any third parties [Subcontractors] to perform services related to the Project [Subcontractor Services] is subject to prior approval by the City. The Consultant shall list on the Subcontractor List (Exhibit D Attachment BB) all Subcontractors known to the Consultant at the time this Agreement is entered. The City recognizes that due to the emergency nature of the work, formal written approval may not be possible prior to mobilization of Subcontractors. If at any time after this Agreement is entered into the Consultant identifies a need for additional Subcontractor Services of an urgent nature, the Consultant shall obtain verbal authorization from the City's project manager or other authorized City staff as designated in writing. To the extent that it is practicable to do so in non-urgent situations, the Consultant shall give written notice to the City of the need for Subcontractor Services before entering into a contract for such Subcontractor Services. Either before or after mobilizing Subcontractors, as applicable, the Consultant shall provide a justification, a description of the scope of work, and an estimate of all costs for the Subcontractor Services.

4.4.1 Subconsultant Contract. All contracts entered into between the Consultant and any Subconsultant shall contain the information as described in Sections 4.6, 4.7, 4.10.2, and 4.18, and shall also provide as follows:

4.4.1.1 Each Subconsultant shall obtain insurance policies which shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. Each Subconsultant shall obtain, and the Consultant shall require the Subconsultant to obtain, all policies described in Section 4.3.1 in the amounts required by the City, which shall not be greater than the amounts required of the Consultant.

4.4.1.2 The Consultant is obligated to pay the Subconsultant, for Consultant- and City-approved invoice amounts, out of amounts paid by the City to the Consultant, not later than ten (10) calendar days from the Consultant's receipt of payment from the City. Nothing in this paragraph shall be construed to impair the right of the Consultant and any Subconsultant to negotiate fair and reasonable pricing and payment provisions among themselves.

4.4.1.3 No retainage (i.e. withheld funds) will be held by the City from progress payments due to the Consultant except as allowed by law. Any retainage held by Consultant from progress payments due the Subconsultant shall be promptly paid in full within thirty days after the Subconsultant's work is satisfactorily completed. Consistent with 49 CFR § 26.29, any delay or postponement of payment over 30 days may occur only for good cause and with the City's prior written approval. Any violation of this provision shall subject the violating Consultant to all applicable penalties, sanctions, and remedies, including without limitation those provided in Cal. Bus. & Prof. Code §7108.5.

4.4.1.4 In the case of a deficiency in the performance of Subconsultant Services, the Consultant shall notify the City in writing of any withholding of payment to the Subconsultant, specifying: (a) the amount withheld; (b) the specific cause under the terms of the subcontract for withholding payment; (c) the connection between the cause for withholding payment and the amount withheld; and (d) the remedial action the Subconsultant must take in order to receive the amount withheld. Once the Subconsultant corrects the deficiency, the Consultant shall pay the Subconsultant the amount withheld within ten (10) calendar days of the Consultant's receipt of the City's next payment.

4.4.1.5 In any dispute between the Consultant and Subconsultant, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in Article VI of this Agreement in any dispute between the Consultant and Subconsultant should the City be made a party to any judicial or administrative proceeding to resolve the dispute in violation of this position.

4.4.1.6 The Subconsultant is bound to the City's Equal Opportunity Contracting Program covenants set forth in Article IV, Section 4.6 and Exhibit D of this Agreement.

4.5 Contract Activity Report. The Consultant shall submit statistical information to the City as requested in the City's Contract Activity Report [Exhibit D Attachment CC]. The statistical information shall include the amount of subcontracting provided by firms during the period covered by the Contract Activity Report. With the Contract Activity Report, the Consultant shall provide an invoice from each Subconsultant listed in the report. The Consultant agrees to issue payment to each firm listed in the Report within fourteen working days of receiving payment from the City for Subconsultant Services as described in Section 4.4.1.

4.6 Non-Discrimination Requirements.

4.6.1 Compliance with the City's Equal Opportunity Contracting Program. The Consultant shall comply with the City's Equal Opportunity Contracting Program Consultant Requirements [Exhibit D]. The Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Consultant shall provide equal opportunity in all employment practices. The Consultant shall ensure that its Subconsultants comply with the City's Equal Opportunity Contracting Program Consultant Requirements. Nothing in this Section shall be interpreted to hold the Consultant liable for any discriminatory practice of its Subconsultants.

4.6.2 Non-Discrimination Ordinance. The Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subconsultants, vendors or suppliers. The Consultant shall provide equal opportunity for Subconsultants to participate in subconsulting opportunities. The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between the Consultant and any Subconsultants, vendors and suppliers.

4.6.3 Federal Non-Discrimination Requirements. The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex

in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate. For the purpose of this paragraph, "contractor" shall mean "consultant," and "subcontractor" shall mean "subconsultant."

4.6.4 Compliance Investigations. Upon the City's request, the Consultant agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Subconsultants, vendors, and suppliers that the Consultant has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by the Consultant for each subcontract or supply contract. The Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance][San Diego Municipal Code sections 22.3501-22.3517]. The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment, and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. The Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination Ordinance apply only to violations of said Nondiscrimination Ordinance.

4.7 Drug-Free Workplace. The Consultant agrees to comply with the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by Council Resolution No. R-277952 and incorporated into this Agreement by this reference. The Consultant shall certify to the City that it will provide a drug-free workplace by submitting a Consultant Certification for a Drug-Free Workplace form [Exhibit E].

4.7.1 Consultant's Notice to Employees. The Consultant shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the work place, and specifying the actions that will be taken against employees for violations of the prohibition.

4.7.2 Drug-Free Awareness Program. The Consultant shall establish a drug-free awareness program to inform employees about all of the following:

- 4.7.2.1 The dangers of drug abuse in the work place.
- 4.7.2.2 The policy of maintaining a drug-free work place.
- 4.7.2.3 Available drug counseling, rehabilitation, and employee assistance programs.
- 4.7.2.4 The penalties that may be imposed upon employees for drug abuse violations.

4.7.3 Posting the Statement. In addition to Section 4.7.1 above, the Consultant shall post the drug-free policy in a prominent place.

4.7.4 Subconsultant's Agreements. The Consultant further certifies that each contract for Subconsultant Services for this Project shall contain language that binds the Subconsultant to comply with the provisions of Article IV, Section 4.7 of this Agreement, as

required by Sections 2.A.(1) through (3) of Council Policy 100-17. Consultants and Subconsultants shall be individually responsible for their own drug-free work place program.

4.8 Title 24/Americans with Disabilities Act Requirements. The Consultant shall warrant and certify that any Project plans and specifications prepared in accordance with this Agreement meet all current California Building Standards Code, California Code of Regulations, Title 24 [Title 24] and Americans with Disabilities Act Accessibility Guidelines [ADAAG] requirements, and are in compliance with The Americans with Disabilities Act of 1990. When a conflict exists between Title 24 and ADAAG, the most restrictive requirement shall be followed. Prior to execution of this Agreement, the Consultant shall complete and submit to the City the Consultant Certification for Title 24/ADA Compliance [Exhibit F].

4.8.1 Consultant has sole responsibility and obligation for designing the project to comply with the ADA and Title 24 as described in this Section; however, as owner of the facility, the City is exposed to liability for projects on which designers fail to meet this obligation. Consequently, the City is implementing an evaluation of certain design aspects to ensure a compliant facility. The Consultant shall complete and submit an ADA Compliance Review Checklist. This Checklist is designed to assist consultants in meeting their ADA obligations under the contract (Consultant also must meet Title 24 which these checklists do not cover). These checklists are not comprehensive. The checklists merely reflect the specific problematic areas of compliance with ADA commonly seen by the City. As a result, the City will be checking only these areas of ADA prior to acceptance of a Consultant's design. The Consultant is obligated to meet all additional laws which are not included on the City's ADA Design Review Checklist, and/or to advise the City at any time if they feel components on the checklist misrepresent the current state of the law. These ADA checklists and the City's access review process in no way limits the Consultant's obligation under the agreement.

4.9 Product Endorsement. The Consultant acknowledges and agrees to comply with the provisions of City of San Diego Administrative Regulation 95-65, concerning product endorsement. Any advertisement identifying or referring to the City as the user of a product or service requires the prior written approval of the City.

4.10 Conflict of Interest. The Consultant is subject to all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at sections 27.3501 to 27.3595.

4.10.1 If, in performing the Professional Services set forth in this Agreement, the Consultant makes, or participates in, a governmental decision as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests.

4.10.1.1 Statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk. The Consultant shall file a Form 700 (Assuming Office Statement) within thirty calendar days of the City's determination that the Consultant is subject to a conflict of interest code. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

4.10.1.2 If the City requires the Consultant to file a statement of economic interests as a result of the Professional Services performed, the Consultant shall be considered a City Official subject to the provisions of the City of San Diego Ethics Ordinance, including the prohibition against lobbying the City for one year following the termination of this Agreement.

4.10.2 The Consultant shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships.

4.10.3 The Consultant and its Subconsultants having subcontracts amounting to 1% or more of the value of the Professional Services agreed to under this Agreement are precluded from participating in design services on behalf of the contractor, construction management, and any other construction services related in any way to these Professional Services without the prior written consent of the City.

4.10.4 The Consultant's personnel employed on the Project shall not accept gratuities or any other favors from any Subconsultants or potential Subconsultants. The Consultant shall not recommend or specify any product, supplier, or contractor with whom the Consultant has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

4.10.5 If the Consultant violates any conflict of interest law or any of the provisions in this Section 4.10, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the Consultant to liability to the City for attorneys fees and all damages sustained as a result of the violation.

4.11 Mandatory Assistance. If a third party dispute or litigation, or both, arises out of, or relates in any way to the Professional Services provided under this Agreement, upon the City's request, the Consultant, its agents, officers, and employees agree to assist in resolving the dispute or litigation. Consultant's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

4.12 Compensation for Mandatory Assistance. The City will compensate the Consultant for fees incurred for providing Mandatory Assistance as Additional Services under Section 3.3. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of the Consultant, its agents, officers, and employees, the Consultant shall reimburse the City. The City is then entitled to reimbursement of all fees paid to the Consultant, its agents, officers, and employees for Mandatory Assistance to the extent that such fees are attributable to the Consultant's negligent acts or omissions.

4.13 Attorney's Fees related to Mandatory Assistance. In providing the City with dispute or litigation assistance, the Consultant or its agents, officers, and employees may incur expenses and/or costs. The Consultant agrees that any attorney fees it may incur as a result of assistance provided under Section 4.11 are not reimbursable. The Parties agree this provision does not in any way affect their rights to seek attorney fees under Article VIII, Section 8.8 of this Agreement.

4.14 Energy Conservation Specifications. Technological advances in energy conservation devices such as Lighting and Heating, Ventilation, and Air Conditioning [HVAC] enable additional energy savings over that required by the State of California Title 24 Energy Standards. The Consultant shall model the energy performance of the building using an acceptable computer model such as Energy Pro, EQuest, DOE-2, Power DOE, HAP 3.22, etc. and present the summary data to the City at or prior to 100% design. This analysis should include life cycle cost analysis showing recovery of construction costs through operation and maintenance costs (e.g., electricity and gas savings.) The Consultant shall prepare a cost savings matrix that lists each device being considered and one, three, five and ten-year project savings. The comparison shall include, but not be limited to, the following equipment: Lighting, HVAC, Water Heating, and Motors.

The Consultant shall contact the SDG&E New Construction Program at (858) 636-5725 or the San Diego Regional Energy Office at (619) 595-5634 to integrate them into the design process to ensure maximum energy performance and access to technical resources. (Consultant shall endeavor to obtain from SDG&E a UTIL-1 (Utility Incentive Worksheet) to estimate energy savings and incentives available based on the design team energy modeling.)

4.15 Year 2000 Compliance. RESERVED

4.16 Notification of Increased Construction Cost. RESERVED

4.17 Green Building. The project design and construction shall comply with City Council Green Building Policy 900-14 [Exhibit G]. All new or significantly remodeled City facilities shall be designed and constructed to achieve energy consumption levels at least 25 percent below the then current Title 24 standards. An Average pay-back period of five years shall be used as a guide for the aggregate of all energy efficiency measures included in the project.

4.18 Design-Build Competition Eligibility. Any architectural firms, engineering firms, consultants, or individuals retained by the City to assist the City with developing criteria or preparing the preliminary design or the request for proposals for a Design-Build competition shall not be eligible to participate with any Design-Build Entity in that Design-Build competition. Additionally, the City may determine in its sole discretion that a subconsultant hired to assist with a Design-Build competition, regardless of whether the subconsultant was hired by the City or hired by an architectural firm, engineering firm, consultant, or individual retained by the City, has a competitive advantage and as such is ineligible to participate in that Design-Build competition.

4.19 Storm Water Management Discharge Control. The Consultant shall comply with Section 43.03 of the San Diego Municipal Code, Storm Water Management Discharge

Control, and any and all Best Management Practice guidelines and pollution elimination requirements as may be established by the Enforcement Official. Further, the Consultant shall prepare and incorporate into the construction documents a Storm Water Pollution Prevention Plan [SWPPP] to be implemented by the contractor during Project construction. Where applicable, the SWPPP shall comply with both the California Regional Water Quality Control Board Statewide General Construction Storm Water permit and National Pollution Discharge Elimination System permit requirements and any municipal regulations adopted pursuant to the permits.

ARTICLE V

CITY'S OBLIGATIONS

5.1 Ownership of Documents. Once the Consultant has received any compensation for the Professional Services performed, all documents, including but not limited to, original plans, studies, sketches, drawings, computer printouts and disk files, and specifications prepared in connection with or related to the Scope of Services or Professional Services, shall be the property of the City. The City's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. The City's ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed. This Section shall apply whether the Consultant's Professional Services are terminated: (a) by the completion of the Project, or (b) in accordance with other provisions of this Agreement. Notwithstanding any other provision of this paragraph or Agreement, the Consultant shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

The Consultant shall not be responsible for damage caused by subsequent changes to or uses of the plans or specifications, where the subsequent changes or uses are not authorized or approved by the Consultant, provided that the service rendered by the Consultant was not a proximate cause of the damage.

5.2 Additional Consultants or Contractors. The City reserves the right to employ, at its own expense, such additional consultants or contractors as the City deems necessary to perform work or to provide Professional Services on the Project.

5.3 Employment of City Staff. This Agreement may be unilaterally and immediately terminated by the City, at its sole discretion, if the Consultant employs an individual who, within the last twelve months immediately preceding such employment did, in the individual's capacity as an officer or employee of the City, participate in, negotiate with, or otherwise have an influence on the recommendation made to the City Council or City Manager in connection with the selection of the Consultant.

5.4 Project Site Safety. Unless otherwise provided by the Scope of Services in this Agreement, Consultant, Subconsultant and their employees are not responsible for general Project site conditions during the course of construction of the Project. The City acknowledges that the construction contractor has primary responsibility for Project site conditions, including safety of all persons and property. This provision shall not be interpreted to in any way relieve the Consultant, Subconsultants or their employees of their obligation under Section 4.1 of this

Agreement to comply with all applicable laws, codes and good consulting practices with regard to the maintenance of a safe Project site.

ARTICLE VI

INDEMNIFICATION

6.1 Indemnity. In addition, and notwithstanding any other provision of this Agreement, the City agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees, and subconsultants, (collectively, Consultant) against all damages, liabilities or costs including reasonable attorneys' fees and defense costs, arising out of or in any way connected with this Project, its scope of work, and/or the performance by any of the parties above named of the services under this Agreement, excepting only those damages, liabilities, or costs attributable to the negligent acts or negligent failure to act by the Consultant.

6.2 Waiver. Except as otherwise expressly provided herein, and excluding the Consultant's negligence in any way connected with this Project or its scope of work, the City agrees to make no claim and hereby waives, to the fullest extent permitted by law, any claim or cause of action of any nature against the Consultant, its officers, directors, employees, and subconsultants, (collectively, Consultant), which may arise out of or in connection with this Project or the performance by any of the parties above named of the services under this Agreement.

ARTICLE VII

FEDERAL REQUIREMENTS

7.1 This Project is funded by Federal Highway Bridge Rehabilitation and Replacement Funds [HBRR]. All Project work and Agreements will be subject to the review and approval of the State of California Department of Transportation [CALTRANS] and the Federal Highway Administration [FHWA].

7.2 The Consultant and its Subcontractors shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred, and shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract, for inspection by the City, CALTRANS, and the FHWA, the Comptroller General of the United States, or their duly authorized representatives.

7.3 The cost principles and procedures for use in the determination of allowable elements of cost will be governed by the Federal Acquisition Regulations in 48 CFR, Chapter 1, Part 31.

7.4 The Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For

breach or violation of this warranty, the City shall have the right to annul this agreement without liability, or at its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

7.5 The Consultant shall comply with all Federal, State, and Local laws and ordinances applicable to the work. This includes compliance with prevailing wage rates and their payment in accordance with California Labor Code, including but not limited to Sections 1720 and 1771 [see Exhibit H].

7.6 Neither this Agreement or any part thereof shall be subcontracted, assigned, or transferred by the Consultant except as otherwise provided for in the Agreement.

7.7 The Consultant shall comply with California Government Code section 7550 as follows:

Any document or written report prepared for or under the direction of a State or Local Agency, which is prepared in whole or in part by non-employees of such Agency, shall contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such document or written report; provided, however, that the total cost for work performed by non-employees of the agency exceeds FIVE THOUSAND DOLLARS (\$5,000). The contract and subcontract numbers and dollar amounts shall be contained in a separate section of such document or written report.

When multiple documents or written reports are the subject or product of the contract, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or written reports.

7.8 All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of 49 CFR Part 18. Some of the situations considered to be restrictive of competition include, but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

7.9 The City will perform a cost analysis of its Agreement with the Consultant when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

7.10 The City and the Consultant must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, or other pertinent documents when:

- (i) The City's or the Consultant's procurement procedures or operation fails to comply with the procurement standards in 49 CFR Section 18.36; or
- (ii) The procurement is expected to exceed the simplified acquisition threshold [currently fixed at \$100,000 by 41 U.S.C. 403(11)] and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
- (iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a brand name product; or
- (iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- (v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

7.11 The City will use procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and standards identified in 49 CFR Section 18.36.

7.12 Contract modifications are required for any modification in the terms of the original contract that change the cost of the contract; significantly change the character, scope, complexity, or duration of the work; or significantly change the conditions under which the work is required to be performed. A contract modification shall clearly outline the changes made and determine a method of compensation. FHWA approval of contract modifications shall be obtained prior to beginning the work, except that in unusual circumstances the Consultant may be authorized to proceed with work prior to agreement on the amount of compensation and execution of the contract modification, provided the FHWA has previously approved the work and has concurred that additional compensation is warranted.

7.13 The Consultant agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

ARTICLE VIII

MEDIATION

8.1 Mandatory Non-binding Mediation. With the exception of Sections 2.5-2.8 of this Agreement, if a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the Parties agree to first endeavor to settle the dispute in an amicable manner, using mandatory mediation under the Construction Industry Mediation Rules of the American Arbitration Association [AAA] or any other neutral organization agreed upon before having recourse in a court of law.

8.2 Mandatory Mediation Costs. The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required traveling and expenses of the mediator [Mediator], and the cost of any proofs or expert advice produced at the direct request of the Mediator, shall be borne equally by the Parties, unless they agree otherwise.

8.3 Selection of Mediator. A single Mediator that is acceptable to both Parties shall be used to mediate the dispute. The Mediator will be knowledgeable in construction aspects and may be selected from lists furnished by the AAA or any other agreed upon Mediator. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing Party. If the Mediator is selected from a list provided by AAA, the initiating Party shall concurrently file with AAA a Request for Mediation along with the appropriate fees, a list of three requested Mediators marked in preference order, and a preference for available dates.

8.3.1 If AAA is selected to coordinate the mediation [Administrator], within ten working days from the receipt of the initiating Party's Request for Mediation, the opposing Party shall file the following: a list of preferred Mediators listed in preference order after striking any Mediators to which they have any factual objection, and a preference for available dates. If the opposing Party strikes all of initiating Party's preferred Mediators, opposing Party shall submit a list of three preferred Mediators listed in preference order to initiating Party and Administrator. Initiating Party shall file a list of preferred Mediators listed in preference order, after striking any Mediator to which they have any factual objection. This process shall continue until both sides have agreed upon a Mediator.

8.3.2 The Administrator will appoint or the Parties shall agree upon the highest, mutually preferred Mediator from the individual Parties' lists who is available to serve within the designated time frames.

8.3.3 If the Parties agree not to use AAA, then a Mediator, date and place for the mediation shall be agreed upon.

8.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. All discussions, statements, or admissions will be confidential to the Party's legal position. The Parties may agree to exchange any information they deem necessary.

8.4.1 Both Parties must have an authorized representative attend the mediation. Each representative must have the authority to recommend entering into a settlement. Either Party may have attorney(s) or expert(s) present. Upon reasonable demand, either Party may request and receive a list of witnesses and notification whether attorney(s) will be present.

8.4.2 Any agreements resulting from mediation shall be documented in writing. All mediation results and documentation, by themselves, shall be Anon-binding@ and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

ARTICLE IX

MISCELLANEOUS

9.1 **Notices.** In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice to the City shall be addressed to: 1010 Second Avenue, Suite 1200, San Diego, Ca 92101-4905 and notice to the Consultant shall be addressed to: Helenschmidt Geotechnical Inc., 5245 Avenida Encinas, Suite B, Carlsbad, CA 92008.

9.2 **Headings.** All article headings are for convenience only and shall not affect the interpretation of this Agreement.

9.3 **Non-Assignment.** The Consultant shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without the City's prior written approval. Any assignment in violation of this paragraph shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of the City. In no event shall any putative assignment create a contractual relationship between the City and any putative assignee.

9.4 **Independent Contractors.** The Consultant and any Subconsultant employed by the Consultant shall be independent contractors and not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Consultant concerning the details of performing the Professional Services, or to exercise any control over such performance, shall mean only that the Consultant shall follow the direction of the City concerning the end results of the performance.

9.5 **Consultant and Subconsultant Principals for Professional Services.** It is understood that this Agreement is for unique Professional Services. Retention of the Consultant's Professional Services is based on the particular professional expertise of the following members of the Consultant's organization: Stan Helenschmidt, Michael W. Hart, and Rupert S. Adams [Project Team] [Project Team]. Accordingly, performance of Professional Services on the Project may not be delegated to other members of the Consultant's organization or to Subconsultants without the prior written consent of the City. It is mutually agreed that the members of the Project Team are the principal persons responsible for delivery of all Professional Services and may not be removed from the Project without the City's prior written approval. In the event any member of the Project Team becomes unavailable for any reason, the City must be consulted as to any replacement. Further, the City reserves the right, after consultation with the Consultant, to require any of the Consultant's employees or agents to be removed from the Project.

9.6 Covenants and Conditions. All provisions of this Agreement expressed as either covenants or conditions on the part of the City or the Consultant, shall be deemed to be both covenants and conditions.

9.7 Compliance with Controlling Law. The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement, including California Labor Code section 1720 as amended in 2000 relating to the payment of prevailing wages during the design and pre-construction phases of a project, including inspection and land surveying work [Exhibit H]. In addition, the Consultant shall comply immediately with all directives issued by the City or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

9.8 Jurisdiction, Venue, and Attorney's Fees. The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney's fees in addition to any other award made in such suit or proceeding.

9.9 Successors in Interest. This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

9.10 Integration. This Agreement and the Exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties or an amendment to this Agreement agreed to by both Parties. All prior negotiations and agreements are merged into this Agreement.

9.11 Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

9.12 No Waiver. No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach or of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.

9.13 Severability. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

9.14 Municipal Powers. Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

9.15 Drafting Ambiguities. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

9.16 Conflicts Between Terms. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

9.17 Consultant Evaluation. City will evaluate Consultant's performance of Professional Services on the Project using the Consultant Evaluation Form [Exhibit I].

9.18 Exhibits Incorporated. All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

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COPY DUPLICATE
ORIGINAL

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor, pursuant to Resolution Number R – 303041, dated October 5, 2007, and San Diego Municipal Code Section 11.0102.5, authorizing such execution, and by the Consultant.

Dated this 12th day of December, 2007.

THE CITY OF SAN DIEGO
Mayor or Designee

By Tammy Rimes
Tammy Rimes
Acting Director
Purchasing & Contracting

I HEREBY CERTIFY I can legally bind Helenschmidt Geotechnical Inc., and that I have read all of this Agreement, this 10th day of December, 2007

By Stan Helenschmidt
Stan Helenschmidt
Principal Geotechnical Engineer

I HEREBY APPROVE the form and legality of the foregoing Agreement this 13th day of Dec, 2007

MICHAEL J. AGUIRRE, City Attorney

By [Signature]
Deputy City Attorney

EXHIBITS

- Exhibit A - Scope of Services
- Exhibit B - Compensation and Fee Schedule
- Exhibit C - Time Schedule
- Exhibit D - City's Equal Opportunity Contracting Program Consultant Requirements
 - (AA) Work Force Report
 - (BB) Contract Activity Report
 - (CC) Subconsultants List
- Exhibit E - Consultant Certification for a Drug-Free Workplace
- Exhibit F - ADA/Title 24 Consultant Certification
- Exhibit G - City Council Green Building Policy 900-14
- Exhibit H - California Labor Code section 1720
- Exhibit I - Consultant Evaluation Form

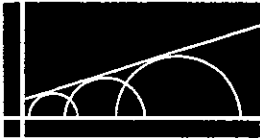
ATTACHMENTS

- 1 Certification of Local Agency
- 2 Certification of Consultant

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EXHIBIT A

SCOPE OF SERVICES



November 20, 2007

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Jamal Batta
Project Manager
Transportation Engineering Division
City of San Diego
1010 Second Ave. Suite 100
San Diego, CA 92101-4905

SUBJECT: Revised Scope and Supplemental Terms and Conditions for Geotechnical Professional Services for Emergency Investigation and Stabilization Design Time and Expenses Agreement

RE: Soledad Mountain Road Landslide, La Jolla, California

Dear Mr. Batta:

In accordance with your request, we are providing the following scope of services (based on currently known information) and supplemental terms and conditions for continuation of emergency geotechnical services for investigation, stabilization design and construction observation and testing for the recent landslide affecting Soledad Mountain Road and Desert View Drive (alley).

Our original scope of services was described in our proposal to you dated October 1, 2007, and was limited to stabilization design of Soledad Mountain Road, and specifically did not include stabilization design involving adjacent private properties or Desert View Drive (alley). The October 3, 2007 landslide failure constitutes a substantial changed condition and we have notified you both verbally and in our letter to you dated October 9, 2007 of the Delay, Change of Conditions, Additional Services, and Additional Costs pursuant to our contract with the City. Per your request, we amended the Scope of Services, Terms and Conditions to reflect the changed conditions and allow expenditure of the previously authorized budget of \$240,000 for charges incurred on a "Time and Expenses" basis. Revised Terms and Conditions for the contract are effective as of October 3, 2007 and were agreed to by all parties in our meeting with the City's legal counsel, engineering staff and contract administrators on October 30, 2007. The revised scope of services is considered an amendment to the original contract (H084176) and was transmitted to you on November 9, 2007. As of this date we have not received a signed copy of the revised agreement from the City.

The following scope of services is presented for a Time and Expenses agreement that will allow provision of geotechnical services through implementation of repair. Provision of the services described under the Scope of Services below is contingent upon the revised Terms and Conditions agreed to by Helenschmidt Geotechnical, Inc. and City's legal counsel, engineering staff and contract administrators on October 30, 2007.

UNDERSTANDING OF OBJECTIVES

Based on our discussions with you, we understand that the City desires to perform a limited slope treatment of private properties affected by the landslide to reduce risk to adjacent properties and to provide a slight increase in the factor of safety of the landslide mass. A conceptual plan for the slope treatment has been presented to the City for consideration. We understand that the City also desires to reopen Soledad Mountain Road as soon as possible. The reopening of Soledad Mountain Road will

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require stabilization within the right of way and within the approximate limits of the current landslide. Stabilization efforts will be directed toward minimizing potential expansion of the current landslide area and adverse effects of landslide expansion on safety and improvements. Further, we understand that the City desires to restore access to homeowners along Desert View Drive (alley) and to stabilize the west side of Desert View Drive (alley) within the limits of the landslide. The City's objectives or participation toward restoration of private properties is not known at the current time. However, it is likely that stabilization efforts for the west side of Desert View Drive (alley), within the limits of the landslide, will require some stabilization construction beyond the limits of the right of way.

It should be noted that the area of the recent landslide is surrounded by terrain with a multitude of adverse geotechnical conditions. Stabilization design efforts do not preclude future instability of adjacent areas or activation of deeper shear planes beyond the limits of current landsliding. If broader stabilization design is desired incorporating other areas beyond the depths and lateral extent of the current landslide please notify us and we will meet with you, discuss the intent of expansion of stabilization efforts and modify our scope accordingly.

We have presented the City with conceptual repair alternatives for Soledad Mountain Road and Desert View Drive alley and regrading of the private properties (if applicable). These alternatives are currently under consideration by the City.

SCOPE OF WORK

We propose the following scope of work to address emergency situations as they arise, continue characterization of the site geologic and geotechnical conditions, perform additional investigation at the toe area of the landslide, prepare plans for temporary treatment of the private properties within the landslide to reduce public risk, monitor construction of the proposed slope treatment, evaluate slope stability and develop detailed stabilization plans for Soledad Mountain Road and the west side of Desert View Drive (alley) within the limits of the current landslide. Note that concept plans will be based on limited subsurface data in order to allow the City to compare rough costs of various options in regard to the ultimate repair approach for Soledad Mountain Road and Desert View Drive (alley). The actual suitability of concept repair options and their eventual implementation will require verification by site specific geotechnical investigation (including on private properties), testing and analysis.

The City's anticipated involvement in restoration of private properties and objectives regarding "as built" factors of safety and proposed future use of land within the landslide area have not been defined at this time. We can also modify our scope to include future stabilization design of areas beyond the right of way of Soledad Mountain Road and the right of way of Desert View Drive alley upon your request.

The following outlines our currently anticipated emergency design geotechnical services:

1. Coordination with City Staff – We will communicate on a daily basis with City staff, regarding project needs and data as they develop. We will respond to emergency situations and provide geotechnical consultation, as needed, to the City. Specific project geotechnical tasks may be authorized by the City's project manager, the City Geologist, the Resident Engineer or the City Engineer. In the event of additional landslide movement, expansion of the landslide or other significant events that may affect public safety, we will assist the City in developing and implementing emergency procedures.
2. Additional Inclinometer Installation – For monitoring of adjacent properties, we have assumed that approximately 3 inclinometers will be placed on each side of the landslide adjacent to the upslope properties and 3 along the toe area within or adjacent to Desert View Drive. In addition, we understand that the City desires one inclinometer to be

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placed in Desert View Drive (odd). We anticipate a total of 10 additional inclinometers with an average depth of 100 feet.

Please note that we assume absolutely no responsibility for damage to unmarked buried utilities or incidental damage to landscape or improvements during field investigation. If such damage occurs, we can repair it on a time and expenses basis in accordance with the attached Schedule of Charges upon your request.

The County of San Diego, Department of Environmental Health has granted an open permit for drilling and inclinometer installation for the emergency stabilization.

3. Geologic Mapping – We will continue to perform geologic mapping of key features relevant to our analysis of the landslide. Geologic mapping will be performed prior to and during stabilization implementation. Geologic mapping will be performed under the direct supervision of a Certified Engineering Geologist.
4. Inclinometer Monitoring - We will perform readings of the inclinometer installations throughout construction. We will perform daily inclinometer monitoring throughout the construction period. Due to the number of the inclinometers, we assume that full time monitoring will be required. Vibration monitoring will be performed concurrently with inclinometer monitoring by our field representative. We will send inclinometer plots to the City Geologist following data reduction. Interim reports for inclinometer and vibration monitoring will be submitted to the City.
5. Review of Existing Geologic Data and Geotechnical Reports- We will review additional available geologic maps and publications relevant to the site area as they become available.
6. Large Diameter Borings at Toe of Landslide and Immediately South of Toe – We propose placement of 2 large diameter borings in the toe of the landslide to define the geometry of the basal rupture surface and to check for bedding plane shears that may impact stability during or after repairs. One additional boring will be placed south of the landslide toe to check for remnant shear surfaces of the 1961 landslide rupture surface, other bedding plane shears and the presence of fill which may or may not be currently supporting the remainder of the 1961 landslide immediately adjacent to the current landslide. Borings should extend to approximately 100 feet in depth. We anticipate usage of Anderson Drilling's track mounted drill rig to accomplish these borings. Borings will be geologically logged. Please note that we assume absolutely no responsibility for damage to unmarked buried utilities or incidental damage to landscape or improvements during field investigation. If such damage occurs, we can repair it on a time and expenses basis in accordance with the attached Schedule of Charges upon your request.
7. Laboratory Testing- Laboratory testing is ongoing and includes moisture/density determinations, Atterberg limits, gradation, direct shear, residual shear and chemical testing. We anticipate that limited laboratory testing will be performed during this phase to assess moisture and density of the soil and during construction to determine maximum dry density and optimum moisture characteristics of fill soils. The majority of laboratory testing will be performed on relatively undisturbed samples obtained during inclinometer installation.
8. Geologic and Geotechnical Analysis- Geologic cross sections will be developed based on conditions observed and documented during subsurface exploration. The cross sections will be used for slope stability analysis for temporary slope treatment for private

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properties within the landslide, repair of Soledad Mountain Road and repair of Desert View Drive alley. We will perform stability analysis and design for the selected repair alternatives. Slope stability analysis will be performed using either the PCSTABL or XSTABL computer program and incorporating field and laboratory test data.

9. Structural Design – Structural design will be performed for shear pins, tie back and shotcrete wall and grade beam (if selected), and panel wall construction (if selected).
10. Interim Reports and Plans – Interim geotechnical reports will be prepared for the repair phases along with plans and specifications. We will prepare interim winterization plans for temporary treatment of the slope. Reports will present relevant geotechnical and geologic data and address local stability and recommended repair measures. We will submit copies of D-sheet size plans for review and will provide mylars for final plans subsequent to plan check corrections. Note that our scope and cost do not include CAD drawings. If CAD drawings are requested, we will contract with an outside drafting service to prepare them at additional cost. Design plan sheets will be provided on a recent survey, 20 scale base map of the project area to be provided by the City of San Diego survey department.
11. Construction Observation and Testing - We will geologically log selected shear pin borings (expected 30 percent) as the holes are drilled. Please note that we have not included costs in our estimate for a drill rig for logging during construction. We will perform geologic mapping of exposures during grading of the site. We will perform construction observation and compaction testing of fill soils as they are placed. We will provide geotechnical consultation and analysis during construction, as needed. At the completion of construction, we will prepare an as-built geotechnical report and as built drawings.

Any recommendations and/or design criteria provided within our scope of work are contingent upon our firm being retained to provide consultation, testing and inspection services during construction and to be consulted when any questions arise with regard to the recommendations contained herein. Unanticipated soil and geologic conditions are commonly encountered during construction which cannot be fully determined from existing exposures or by limited subsurface investigation. Such conditions may require additional expenditures during construction to obtain a properly constructed project. Some contingency fund is recommended to accommodate these possible extra costs.

Neither the professional activities of Helenschmidt Geotechnical, Inc. (HGI), nor the presence of HGI employees and HGI subconsultants at a construction site, shall relieve the contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. HGI and its personnel have no authority to exercise any control or supervision over any construction contractor or other entity or their employees in connection with their work, or any health or safety precautions. The City agrees that the general contractor and its various subcontractors are solely responsible for jobsite safety, and warrants that this intent shall be made evident where appropriate in the City's agreements with its contractors.

It is the responsibility of the City to ensure that the information, recommendations, design details and specifications provided as part of the above scope of work are called to the attention of the contractor. Furthermore, it is also the responsibility of the City to ensure that the contractor and subcontractors carry out such recommendations in the field.

November 20, 2007

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HGI's services are for the benefit of the City, but the City recognizes that the extent of those services is limited by the time-frame chosen and the funds expended by the City for investigation, analysis and design. HGI has no responsibility for the work product, completeness, adequacy, or quality of work of any independent consultants hired by the City, nor for the work product of City staff or the Contractor. Further the City recognizes that there are inherent risks involved with implementation of stabilization design which may result in damage to adjacent properties or improvements. By authorization of the above scope of services the City recognizes and accepts those risks as its own.

LIMITATIONS

We will use that degree of care and skill ordinarily exercised under similar circumstances by members of our profession in performing our services. No warranty, express or implied, is made or intended by our proposal for consulting services, by our furnishing oral or written reports, or by our inspection or work.

We appreciate the opportunity to be of continued service. If you have any questions regarding the above, please call at your earliest convenience.

Very truly yours,
Helenschmidt Geotechnical, Inc.



Stanley Helenschmidt
Principal Geotechnical Engineer

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EXHIBIT B

COMPENSATION AND FEE SCHEDULE

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HELENSCHMIDT GEOTECHNICAL, INC.
SCHEDULE OF CHARGES
SOLEDAD MOUNTAIN ROAD LANDSLIDE

PERSONNEL

Principal Engineer	\$ 170/hr
Senior Engineer	\$ 120/hr
Project Engineer	\$ 110/hr
Senior Staff Professional	\$105/hr
Staff Professional	\$ 100/hr
Field/Laboratory Technician	\$ 85/hr
Technical Illustrating	\$ 80/hr
Word Processing	\$ 60/hr
Clerical/Accounting	\$ 60/hr
Special Consultants	By Arrangement

EQUIPMENT AND SERVICES

Inclinometer System	\$ 150/day
Floor Level Surveying Equipment	\$ 100/day
Groundwater Level Probe	\$ 75/day
Digital Camera	\$ 75/day
Nuclear Moisture/Density Gauge	\$ 60/day
Laser Distance Meter	\$ 50/day
Vehicle	\$.75/mi
Photocopying	\$.15/copy
Computer Assisted Plotting	\$10/sq. ft.
Seismograph	\$100/day
Gas Detector	\$50/day

The minimum charge for field observation time is two hours. Travel time will be charged at the applicable hourly rates above. Overtime for Field Technician Personnel is billed at 1.5 times the hourly rate.

Expert witness testimony for court appearances will be charged on a daily basis (minimum one day increments) at a rate of \$3,040 per day. Deposition testimony will be charged at a rate of \$380 per hour (minimum two hour charge). Preparation time and consultation for depositions or court appearances will be charged on a time-and-expense basis in accordance with the Personnel, Equipment, and Expense charges listed herein.

LABORATORY TESTING

Laboratory testing will be charged on a time-and-expenses basis in accordance with the Personnel, Equipment, and Expense charges listed herein. Outside laboratory services will be charged at cost plus 15 percent. Sample transport will be billed at the applicable personnel and mileage rates as shown. Special handling, supplies, permitting or containers will be billed at cost plus 15%. Laboratory samples will be discarded 60 days after the date of final report submittal unless storage is requested by the client. Sample storage charges will be quoted upon request.

EXPENSES AND OUTSIDE SERVICES

Expenses will be billed at cost plus 15 percent including but not limited to: Travel expenses including air fare, lodging, vehicle rental, etc. (a flat subsistence charge of \$50 per diem for overnight stay will be charged in addition to the lodging cost); Excavation and drilling subcontractors and expendable field supplies; Reproduction; Photographic film, processing and printing; Special fees, permits, insurance, etc.; Long distance communications; Equipment rental; Special mail service (overnight, freight, courier, etc.); and Special consultant fees.

LIMITATIONS AND TERMS

Professional Liability - We will use that degree of care and skill ordinarily exercised under similar circumstances by members of our profession in performing our services. No warranty, express or implied, is made or intended by our proposal for consulting services, by our furnishing oral or written reports, or by our inspection or work.

Field Exploration - The client grants us right-of-entry to the project site. The client will provide us with locations and depths of buried utilities and structures. We assume no responsibility for damage or injury resulting from unmarked underground utilities or improvements. Our fee does not include cost of restoration of damage resulting from our exploration operations. Incidental damage will be repaired upon request on a time and expenses basis upon request.

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EXHIBIT C

TIME SCHEDULE

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP) CONTRACTOR REQUIREMENTS

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I. City's Equal Opportunity Commitment. The City of San Diego (City) is strongly committed to equal opportunity for employees and Subcontractors of professional service consultants doing business with the City. The City encourages its consultants to share this commitment. Prime consultants are encouraged to take positive steps to diversify and expand their Subcontractor solicitation base and to offer consulting opportunities to all eligible Subcontractors.

II. Nondiscrimination in Contracting Ordinance. All consultants and professional service providers doing business with the City, and their Subcontractors, must comply with requirements of the City's *Nondiscrimination in Contracting Ordinance*, San Diego Municipal Code Sections 22.3501 through 22.3517.

A. Proposal Documents to include Disclosure of Discrimination Complaints. As part of its bid or proposal, Proposer shall provide to the City a list of all instances within the past ten (10) years where a complaint was filed or pending against Proposer in a legal or administrative proceeding alleging that Proposer discriminated against its employees, Subcontractors, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

B. Contract Language. The following language shall be included in contracts for City projects between the consultant and any Subcontractors, vendors, and suppliers:

Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Consultant shall provide equal opportunity for Subcontractors to participate in subconsulting opportunities. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

C. Compliance Investigations. Upon the City's request, Consultant agrees to provide to the City, within sixty (60) calendar days, a truthful and complete list of the names of all Subcontractors,

vendors, and suppliers that Consultant has used in the past five (5) years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Consultant for each subcontract or supply contract. Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's *Nondiscrimination in Contracting Ordinance*, Municipal Code Sections 22.3501 through 22.3517. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment and other sanctions for violation of the provisions of the *Nondiscrimination in Contracting Ordinance*. Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the *Nondiscrimination in Contracting Ordinance* apply only to violations of the *Ordinance*.

III. **Equal Employment Opportunity.** Consultants shall comply with requirements of San Diego Ordinance No. 18173, Section 22.2701 through 22.2707, Equal Employment Opportunity Outreach Program. Consultants shall submit a *Work Force Report* or an *Equal Employment Opportunity (EEO) Plan* to the Program Manager of the City of San Diego Equal Opportunity Contracting Program (EOCP) for approval.

- A. **Work Force Report.** If a *Work Force Report* (Attachment AA) is submitted, and an EOCP staff Work Force Analysis determines there are under representation when compared to County Labor Force Availability data, Consultant will be required to submit an *Equal Employment Opportunity Plan*.
- B. **Equal Employment Opportunity Plan.** If an *Equal Employment Opportunity Plan* is submitted, it must include at least the following assurances that:
 - 1. The Consultant will maintain a working environment free of discrimination, harassment, intimidation and coercion at all sites and in all facilities at which the Consultant's employees are assigned to work;
 - 2. A responsible official is designated to monitor all employment related activity to ensure the Consultant's EEO Policy is being carried out and to submit reports relating to EEO provisions;
 - 3. Consultant disseminates and reviews its EEO Policy with all employees at least once a year, posts the policy statement and EEO posters on all company bulletin boards and job sites, and documents every dissemination review and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings;
 - 4. The Consultant reviews, at least annually, all supervisor's adherence to and performance under the EEO Policy and maintains written documentation of these reviews;
 - 5. The Consultant discusses its EEO Policy Statement with Subcontractors with whom it anticipates doing business, includes the EEO Policy Statement in its subcontracts, and provides such documentation to the City upon request;
 - 6. The Consultant documents and maintains a record of all bid solicitations and outreach efforts to and from Subcontractors, consultant associations and other business associations;
 - 7. The Consultant disseminates its EEO Policy externally through various media, including the media of people of color and women, in advertisements to recruit,

maintains files documenting these efforts, and provides copies of these advertisements to the City upon request;

8. The Consultant disseminates its EEO Policy to union and community organizations;
9. The Consultant provides immediate written notification to the City when any union referral process has impeded the Consultant's efforts to maintain its EEO Policy;
10. The Consultant maintains a current list of recruitment sources, including those outreaching to people of color and women, and provides written notification of employment opportunities to these recruitment sources with a record of the organizations' responses;
11. The Consultant maintains a current file of names, addresses and phone numbers of each walk-in applicant, including people of color and women, and referrals from unions, recruitment sources, or community organizations with a description of the employment action taken;
12. The Consultant encourages all present employees, including people of color and women employees, to recruit others;
13. The Consultant maintains all employment selection process information with records of all tests and other selection criteria;
14. The Consultant develops and maintains documentation for on-the-job training opportunities and/or participates in training programs for all of its employees, including people of color and women, and establishes apprenticeship, trainee, and upgrade programs relevant to the Consultant's employment needs;
15. The Consultant conducts, at least annually, an inventory and evaluation of all employees for promotional opportunities and encourages all employees to seek and prepare appropriately for such opportunities;
16. The Consultant ensures the company's working environment and activities are non-segregated except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes;
17. The Consultant establishes and documents policies and procedures to ensure job classifications, work assignments, promotional tests, recruitment and other personnel practices do not have a discriminatory effect; and
18. The Consultant is encouraged to participate in voluntary associations, which assist in fulfilling one or more of its non-discrimination obligations. The efforts of a consultant association, consultant/community professional association, foundation or other similar group of which the Consultant is a member will be considered as being part of fulfilling these obligations, provided the Consultant actively participates.

IV. Equal Opportunity Contracting. Prime consultants are encouraged to take positive steps to diversify and expand their Subcontractor solicitation base and to offer contracting opportunities to all eligible

Subcontractor. To support its Equal Opportunity Contracting commitment, the City has established a voluntary *Subcontractor participation level*.

A. Subcontractor Participation Level

1. Projects valued at \$25,000 or more have a voluntary Subcontractor Participation Level goal of 15%. Goals are achieved by contracting with any combination of Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE) or Other Business Enterprise (OBE) level.
2. While attainment of the 15% Subcontractor Participation Level goal is strictly voluntary, the City encourages diversity in your outreach and selection efforts. Historical data indicates that of the overall 15% goal, 25% to 30% Disadvantaged Business Enterprise (DBE) and 1% to 3% Disabled Veteran Business Enterprise (DVBE) participation is attainable. The remaining percentages may be allocated to Other Business Enterprises (OBE). Participation levels may be used as a tiebreaker in cases of an overall tie between two or more firms.

- B. Contract Activity Reports. To permit monitoring of the successful Consultant's commitment to achieving compliance, *Contract Activity Reports* (Attachment CC) reflecting work performed by Subcontractors shall be submitted quarterly for any work covered under an executed contract.

V. **Demonstrated Commitment to Equal Opportunity.** The City seeks to foster a business climate of inclusion and to eliminate barriers to inclusion.

A. Proposers are required to submit the following information with their proposals:

1. Outreach Efforts. Description of Proposer's outreach efforts undertaken on this project to make subconsulting opportunities available to all interested and qualified firms.
2. Past Participation Levels. Listing of Proposer's Subcontractor participation levels achieved on all private and public projects within the past three (3) years. Include name of project, type of project, value of project, Subcontractor firm's name, percentage of Subcontractor firm's participation, and identification of Subcontractor firm's ownership as a certified Small Business, Disadvantaged Business Enterprise, Disabled Veteran Business Enterprise, or Other Business Enterprise.
3. Equal Opportunity Employment. Listing of Proposer's strategies to recruit, hire, train and promote a diverse workforce. These efforts will be considered in conjunction with Proposer's *Workforce Report* as compared to the County's Labor Force Availability.
4. Community Activities. Listing of Proposer's current community activities such as membership and participation in local organizations, associations, scholarship programs, mentoring, apprenticeships, internships, community projects, charitable contributions and similar endeavors.

B. Consultant selection panels will consider and evaluate the Proposer's demonstrated commitment to equal opportunity including the following factors:

1. Outreach Efforts. Proposer's outreach efforts undertaken and willingness to make meaningful subconsulting opportunities available to all interested and qualified firms on this project.

2. **Past Participation Levels.** Proposer's Subcontractor participation levels achieved on all private and public projects within the past three (3) years.
3. **Equal Opportunity Employment.** Proposer's use of productive strategies to successfully attain a diverse workforce as compared to the County's Labor Force Availability.
4. **Community Activities.** Proposer's current community activities.

VI. List of Subcontractors. Consultants are required to submit a *Subcontractor List* with their proposal.

- A. **Subcontractors List.** The *Subcontractor List* (Attachment BB) shall indicate the Name and Address, Scope of Work, Percent of Total Proposed Contract Amount, Dollar Amount of Proposed Subcontract, Certification Status and Where Certified for each proposed Subcontractor.
 1. Subcontractors must be named on the *Subcontractors List* if they receive more than one-half of one percent (0.5%) of the Prime Consultant's fee.
- B. **Commitment Letters.** Proposer shall also submit Subcontractor *Commitment Letters* on Subcontractor's letterhead, no more than one page each, from all proposed Subcontractors to acknowledge their commitment to the team, scope of work, and percent of participation in the project.

VII. Definitions. Certified "**Minority Business Enterprise**" (MBE) means a business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or Latinos and whose management and daily operation is controlled by one or more members of the identified ethnic groups. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.

Certified "**Women Business Enterprise**" (WBE) means a business which is at least fifty-one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.

Certified "**Disadvantaged Business Enterprise**" (DBE) means a business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.

Certified "**Disabled Veteran Business Enterprise**" (DVBE) means a business which is at least fifty-one percent (51%) owned by one or more veterans with a service related disability and whose management and daily operation is controlled by the qualifying party(ies).

"**Other Business Enterprise**" (OBE) means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

VIII. Certification.

- A. The City of San Diego is a signatory to a Memorandum of Understanding (MOU) with the California Department of Transportation (CALTRANS), and therefore has adopted a policy

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regarding certification of MBE/WBE/DBE/DVBE firms. As a result of the MOU, an MBE, WBE or DBE is certified as such by any of the following methods:

1. Current certification by the City of San Diego as MBE, WBE, or DBE;
2. Current certification by the State of California Department of Transportation (CALTRANS) as MBE, WBE or DBE;
3. Current MBE, WBE or DBE certification from any participating agency in the statewide certified pool of firms known as CALCERT.

B. DVBE certification is received from the State of California's Department of General Services, Office of Small and Minority Business (916) 322-5060.

IX. List of Attachments.

- AA - *Work Force Report*
- BB - *Subcontractors List*
- CC - *Contract Activity Report*



City of San Diego.
EQUAL OPPORTUNITY CONTRACTING (EOC)
1010 Second Avenue • Suite 500 • San Diego, CA 92101
Phone: (619) 533-4464 • Fax: (619) 533-4474

ATTACHMENT AA

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WORK FORCE REPORT

ADMINISTRATIVE

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

CONTRACTOR IDENTIFICATION

Type of Contractor: ☐ G Construction ☐ G Vendor/Supplier ☐ G Financial Institution ☐ G Lessee/Lessor
☒ G Consultant ☐ G Grant Recipient ☐ G Insurance Company ☐ G Other

Name of Company: Helenschmidt Geotechnical, Inc.

AKA/DBA: _____

Address (Corporate Headquarters, where applicable): 5245 Avenida Encinas, Suite B

City Carlsbad County San Diego State CA Zip 92008

Telephone Number: (760) 579-0333 FAX Number: (760) 579-0230

Name of Company CEO: Stanley Helenschmidt

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: _____

City _____ County _____ State _____ Zip _____

Telephone Number: () _____ FAX Number: () _____

Type of Business: _____ Type of License: _____

The Company has appointed: Stanley Helenschmidt

as its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate, and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 5345 Avenida Encinas, Suite B, Carlsbad, CA 92008

Telephone Number: (760) 579-0333 FAX Number: (760) 579-0230

☐ G One San Diego County (or Most Local County) Work Force - Mandatory

☐ G Branch Work Force *

☐ G Managing Office Work Force

Check the box above that applies to this WFR.

**Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of Helenschmidt Geotechnical, Inc.

(Firm Name)

San Diego, California hereby certify that information provided

(County)

(State)

herein is true and correct. This document was executed on this 4th day of December, 2007.

(Authorized Signature)

Stanley Helenschmidt

(Print Authorized Signature)

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WORK FORCE REPORT - NAME OF FIRM: Helenschmidt Geotechnical, Inc.

DATE: 12-4-07

OFFICE(S) or BRANCH(ES): Carlsbad

COUNTY: San Diego

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- | | |
|--|--|
| (1) Black, African-American | (5) Filipino |
| (2) Hispanic, Latino, Mexican-American, Puerto Rican | (6) White, Caucasian |
| (3) Asian, Pacific Islander | (7) Other ethnicity, not falling into other groups |
| (4) American Indian, Eskimo | |

OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial														
Professional (parentheses indicates subconsultants)											2 (4)			(1)
A&E, Science, Computer														
Technical														
Sales														
Administrative Support											1			
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column											6	1		1
--------------------	--	--	--	--	--	--	--	--	--	--	---	---	--	---

Grand Total All Employees
(subconsultants)

3
(5)

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Non-Profit Organizations Only:

Board of Directors														
Volunteers														

Artists									
---------	--	--	--	--	--	--	--	--	--

000605



CITY OF SAN DIEGO WORK FORCE REPORT – ADMINISTRATIVE

HISTORY

The Work Force Report (WFR) is the document that allows the City of San Diego to analyze the work forces of all firms wishing to do business with the City. We are able to compare the firm's work force data to County Labor Force Availability (CLFA) data derived from the United States Census. CLFA data is a compilation of lists of occupations and includes the percentage of each ethnicity we track (Black, Hispanic, Asian, American Indian, Filipino) for each occupation. Currently, our CLFA data is taken from the 2000 Census. In order to compare one firm to another, it is important that the data we receive from the consultant firm is accurate and organized in the manner that allows for this fair comparison.

WORK FORCE & BRANCH WORK FORCE REPORTS

When submitting a WFR, especially if the WFR is for a specific project or activity, we would like to have information about the firm's work force that is actually participating in the project or activity. That is, if the project is in San Diego and the work force is from San Diego, we want a San Diego County Work Force Report.¹ By the same token, if the project is in San Diego, but the work force is from another county, such as Orange or Riverside County, we want a Work Force Report from that county.² For example, if participation in a San Diego project is by work forces from San Diego County, Los Angeles County and Sacramento County, we will ask for separate Work Force Reports representing the work forces of

your firm from each of the three counties.^{1,2} On the other hand, if the project will be accomplished completely outside of San Diego, we ask for a Work Force Report from the county or counties where the work will be accomplished.²

MANAGING OFFICE WORK FORCE

Equal Opportunity Contracting may occasionally ask for a Managing Office Work Force (MOWF) Report. This may occur in an instance where the firm involved is a large national or international firm but the San Diego or other local work force is very small. In this case, we may ask for both a local and a MOWF Report.^{1,3} In another case, when work is done only by the Managing Office, only the MOWF Report may be necessary.³

TYPES OF WORK FORCE REPORTS:

Please note, throughout the preceding text of this page, the superscript numbers one¹, two² & three³. These numbers coincide with the types of work force report required in the example. See below:

- ¹ One San Diego County (or Most Local County) Work Force – Mandatory in most cases
- ² Branch Work Force *
- ³ Managing Office Work Force

**Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county*

Exhibit: Work Force Report Job categories

Refer to this table when completing your firm's Work Force Report form(s).

Management & Financial

Advertising, Marketing, Promotions, Public Relations, and Sales Managers
Business Operations Specialists
Financial Specialists
Operations Specialties Managers
Other Management Occupations
Top Executives

Professional

Art and Design Workers
Counselors, Social Workers, and Other Community and Social Service Specialists
Entertainers and Performers, Sports and Related Workers
Health Diagnosing and Treating Practitioners
Lawyers, Judges, and Related Workers
Librarians, Curators, and Archivists
Life Scientists

Media and Communication Workers
Other Teachers and Instructors
Postsecondary Teachers
Primary, Secondary, and Special Education School Teachers
Religious Workers
Social Scientists and Related Workers

Architecture & Engineering, Science, Computer

Architects, Surveyors, and Cartographers
Computer Specialists
Engineers
Mathematical Science Occupations
Physical Scientists

Technical

Drafters, Engineering, and Mapping Technicians
Health Technologists and Technicians
Life, Physical, and Social Science Technicians
Media and Communication Equipment Workers

Sales

Other Sales and Related Workers
Retail Sales Workers
Sales Representatives, Services
Sales Representatives, Wholesale and Manufacturing
Supervisors, Sales Workers

Administrative Support

Financial Clerks
Information and Record Clerks
Legal Support Workers
Material Recording, Scheduling, Dispatching, and Distributing Workers
Other Education, Training, and Library Occupations
Other Office and Administrative Support Workers
Secretaries and Administrative Assistants
Supervisors, Office and Administrative Support Workers

Services

Building Cleaning and Pest Control Workers
Cooks and Food Preparation Workers
Entertainment Attendants and Related Workers
Fire Fighting and Prevention Workers
First-Line Supervisors/Managers, Protective Service Workers
Food and Beverage Serving Workers
Funeral Service Workers
Law Enforcement Workers
Nursing, Psychiatric, and Home Health Aides
Occupational and Physical Therapist Assistants and Aides
Other Food Preparation and Serving Related Workers
Other Healthcare Support Occupations

Other Personal Care and Service Workers
Other Protective Service Workers
Personal Appearance Workers
Supervisors, Food Preparation and Serving Workers
Supervisors, Personal Care and Service Workers
Transportation, Tourism, and Lodging Attendants

Crafts

Construction Trades Workers
Electrical and Electronic Equipment Mechanics, Installers, and Repairers
Extraction Workers
Material Moving Workers
Other Construction and Related Workers
Other Installation, Maintenance, and Repair Occupations
Plant and System Operators
Supervisors of Installation, Maintenance, and Repair Workers
Supervisors, Construction and Extraction Workers
Vehicle and Mobile Equipment Mechanics, Installers, and Repairers
Woodworkers

Operative Workers

Assemblers and Fabricators
Communications Equipment Operators
Food Processing Workers
Metal Workers and Plastic Workers
Motor Vehicle Operators
Other Production Occupations
Printing Workers
Supervisors, Production Workers
Textile, Apparel, and Furnishings Workers

Transportation

Air Transportation Workers
Other Transportation Workers
Rail Transportation Workers
Supervisors, Transportation and Material Moving Workers
Water Transportation Workers

Laborers

Agricultural Workers
Animal Care and Service Workers
Fishing and Hunting Workers
Forest, Conservation, and Logging Workers
Grounds Maintenance Workers
Helpers, Construction Trades
Supervisors, Building and Grounds Cleaning and Maintenance Workers
Supervisors, Farming, Fishing, and Forestry Workers

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SUBCONTRACTORS LIST**INFORMATION REGARDING SUBCONTRACTORS PARTICIPATION:**

1. Subcontractor's List shall include name and complete address of all Subcontractors who will receive more than one half of one percent (0.5%) of the Prime Consultant's fee.
2. Proposer shall also submit Subcontractor commitment letters on Subcontractor's letterhead, no more than one page each, from Subcontractors listed below to acknowledge their commitment to the team, scope of work, and percent of participation in the project.
3. Subcontractors shall be used for scope of work listed. No changes to this Subcontractors List will be allowed without prior written City approval.

NAME AND ADDRESS SUBCONTRACTORS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/DBE/ DVBE/OBE	**WHERE CERTIFIED
California Pacific Drilling, 526 W Avenue L, Calimesa, CA 92320	Small diameter drilling,	3	\$30,000 (estimated)	OBE	
Cecilla's Safety Service, PO Box 970, Solana Beach, CA 92075	Traffic Control	0.3	\$3,000 (estimated)	WBE, MBE	San Diego Caltrans
Pacific Drilling, PO Box 84627, San Diego, CA 92138	Large & small diameter drilling,	4	\$40,000 (estimated)	OBE	
Mansolf Excavating, 15873 Hwy 67, Ramona, CA 92065	Cleanup of work area, hand excavation	0.5	\$5,000 (estimated)	OBE	
Geocon, Inc., 6960 Flanders Drive, San Deigo 92121-2974	Lab testing	0.4	\$4,000 (estimated)	OBE	
Stark Consultants, Inc., 401 W. Indaina Ave, Urbana, IL, 61801	Lab testing, torsional shear testing	0.2	2,600 (estimated)	OBE	
CalWest Concrete Cutting and Coring, 2006 Vine Circle, Vista, CA 92084	Concrete cutting	0	Unknown	OBE	

Include Additional Services Not-To-Exceed Amount

PROJECT: _____ PRIME CONTRACTOR: _____
 CONTRACT AMOUNT: _____ INVOICE PERIOD: _____ DATE: _____
Include Additional Services Not-To-Exceed Amount

Subcontractor	Indicate MBE, WBE, DBE, DVBE or OBE	Current Period		Paid to Date		Original Commitment	
		Dollar Amount	% of Contract	Dollar Amount	% of Contract	Dollar Amount	% of Contract
Prime Contractor Total:							
Contract Total:							

Completed by _____

000611

EXHIBIT E

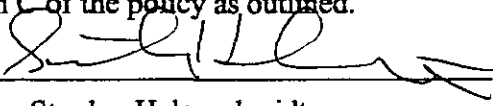
CONSULTANT CERTIFICATION FOR A DRUG-FREE WORKPLACE

PROJECT TITLE: Soledad Mountain Road Stabilization
Design

I hereby certify that I am familiar with the requirement of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the request for proposals, and that:

Helenschmidt Geotechnical, Inc.
Name under which business is conducted

has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the Subcontractors agreement to abide by the provisions of Section 4.9.1 subdivisions A through C of the policy as outlined.

Signed 

Printed Name Stanley Helenschmidt

Title President

Date 12-4-07

000613


EXHIBIT F

**CONSULTANT CERTIFICATION FOR
TITLE 24/ADA COMPLIANCE**

Contract # H084234, Soledad Mountain Road Landslide Repair

I HEREBY WARRANT AND CERTIFY that any and all plans and specifications prepared for Soledad Mountain Road Landslide Repair by Helenschmidt Geotechnical, Inc. shall meet all current California Building Standards Code, California Code of Regulations, Title 24 and Americans with Disabilities Act Accessibility Guidelines requirements, and shall be in compliance with The Americans with Disabilities Act of 1990.

Dated: December 10, 2007 _____

By:  _____
Authorized Representative

Stanley Helenschmidt _____

Print Name and Title

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: SUSTAINABLE BUILDING PRACTICES (AGREEN BUILDING®) FOR PUBLIC
AND PRIVATE BUILDING PROJECTS

POLICY NO.: 900-14

EFFECTIVE DATE: June 19, 2001

BACKGROUND:

Buildings consume approximately 36% to 40% of total energy produced in this country. As energy reliability and costs continue to challenge California, the City of San Diego is committed to reducing the energy and environmental impacts of building design, construction and maintenance both within the public and private sectors.

The City Council previously adopted two policies that address sustainable building practices, otherwise known as AGreen Building® practices. City Policy 900-14 AGreen Building Policy® was adopted in 1997, and City Policy 900-16 ACommunity Energy Partnership® was adopted in 2000. The purpose of this revision is to combine and update Policies 900-14 and 900-16 to provide a more comprehensive and coherent framework for City building projects as well as residential and commercial development within the City of San Diego.

The concept of Sustainable Building AGreen Building® practices is designing, constructing and operating buildings that give a high level of environmental, economic and engineering performance. They are designed to consider occupant health, energy and transportation efficiency, resource and material conservation (air, water, land, fuel), as well as reuse and recycling during building construction, operation and demolition. The Environmental Services Department administrative headquarters is the City's first example of a AGreen Building®, and consumes 50% less energy than the 1998 edition of California's Title 24.

As a participant in the International Council for Local Environmental Initiatives (ICLEI) Cities for Climate Protection Program, the City of San Diego is committed to reducing greenhouse gas emissions by reducing electricity use.

PURPOSE:

The purpose of this policy is to assert the City's commitment to green building practices, and provide leadership and guidance in promoting, facilitating, and instituting such practices in the community.

POLICY:

The following principles will guide construction and renovation activities of both City facilities and private residential and commercial buildings:

1. The natural environment and built habitat are interdependent; ways have to be found for both to coexist in harmony.
2. High environmental quality, outdoors and indoors, is essential for the City's long-term health and welfare.
3. Innovative methods and up-to-date technologies should be used in the design, construction, and renovation of buildings within the City of San Diego in order to bring our consumption of energy and natural resources in line with the goals of sustainability.

CITY OF SAN DIEGO, CALIFORNIA COUNCIL POLICY

In order to achieve the necessary improvements in our natural and built environment, City building projects will be planned and executed using the following guidelines. The City will encourage participation and innovation by the private sector through a voluntary program that encourages energy-efficient standards in the residential and commercial building industries.

ENERGY EFFICIENCY:

1. The goal is to meet the most current criteria set forth in nationally recognized programs, e.g. US EPA AEnergy Star for Buildings® and US DOE ASustainable Buildings Program®.
2. Buildings will be designed to take the maximum advantage of passive and natural sources of heat, cooling, ventilation and light.
3. Mechanical and electrical systems will be designed and constructed to achieve the maximum energy efficiency achievable with current technology. Computer programs such as DOE-2, Energy Pro, MICROPAS, EQuest, Power DOE, and HAP 3.22 will be used where feasible to analyze the effects of various design options and select the set of options producing the most efficient integrated design. Energy efficiency measures will be selected to achieve energy consumption at 25% below California's current Title 24 standards, to the extent such measures are economically justified.
4. Creative design and innovative energy sources and uses will be encouraged to reduce the consumption of energy from non-renewable sources. A deliberate effort will be made to convert to renewable energy sources to the extent that such options are feasible.
5. All new or significantly remodeled City facilities shall be designed and constructed to achieve energy consumption levels at least 25% below the then current Title 24 standards. An average payback period of five years will be used as a guide for the aggregate of all energy efficiency measures included in a project. In order to maximize energy efficiency measures within these guidelines, projects shall combine energy efficiency measures requiring longer payback periods with measures requiring shorter payback periods to determine the overall project period.

HEALTH AND RESOURCE CONSERVATION:

1. Projects will be designed to avoid inflicting permanent adverse impact on the natural state of the air, land and water, by using resources and methods that minimize pollution and waste, and do not cause permanent damage to the earth, including erosion.
2. Projects will include innovative strategies and technologies such as porous paving to conserve water, reduce effluent and run-off, thus recharging the water table.
3. When feasible, native plants will be used in landscaping to reduce pesticide, fertilizer, and water usage.
4. Buildings will be constructed and operated using materials, methods, mechanical and electrical systems that ensure a healthful indoor air quality, while avoiding contamination by carcinogens, volatile organic compounds, fungi, molds, bacteria, and other known toxins.
5. Projects will be planned to minimize waste through the use of a variety of strategies such as: a) reuse of materials or the highest practical recycled content; b) raw materials derived from sustainable or renewable sources; c) materials and products ensuring long life/durability and recyclability; d) materials requiring the minimum of energy and rare resources to produce and use; and e) materials requiring the least amount of energy to transport to the job site.

CITY OF SAN DIEGO, CALIFORNIA COUNCIL POLICY

OUTREACH / EDUCATION:

1. An education and outreach effort will be implemented to make the community aware of the benefits of AGreen Building® practices.
2. The City will sponsor a recognition program for innovative Green Building projects implemented in the public as well as private sector in an effort to encourage and recognize outstanding environmental protection and energy conservation projects.

PRIVATE-SECTOR/INCENTIVES:

1. It shall be the policy of the City Council to expedite the ministerial plan check for projects which meets the criteria of the Community Energy Partnership Program. The criteria may include, but is not limited to:
Compliance with EPA AEnergy Star for Buildings® Program
Residential buildings must exceed Title 24 by 30%
Commercial buildings must exceed Title 24 by 15%
2. It shall be the policy of the City Council to investigate further incentives to encourage energy efficiency in City operations, and in the private sector.

IMPLEMENTATION:

The City will seek cooperation with other governmental agencies, public interest organizations, and the private sector to promote, facilitate, and implement Green Building and energy efficiency in the community.

LEGISLATION:

The City will support State and Federal legislation that promotes or allows sustainable development, conservation of natural resources, and energy efficiency technology.

REFERENCES:

Related existing Council Policies:

400-11, Water Conservation Techniques

400-12, Water Reclamation/Reuse

900-02, Energy Conservation and Management

900-06, Solid Waste Recycling

HISTORY:

Adopted by Resolution R-289457 11/18/1997

Amended by Resolution R-295074 06/19/2001

CALIFORNIA LABOR CODE

EXISTING LAW

' 1771. Payment of general prevailing rate

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

AMENDMENT

' 1720. Public works; use of public funds

As used in this chapter, Apublic works@ means:

(a) Construction, alteration, demolition, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this subdivision, Aconstruction@ includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

(b) Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type. APublic work@ shall not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in Section 1778 relating to retaining wages.

(c) Street sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or district thereof, whether the political subdivision or district operates under a freeholder=s charter or not.

(d) The laying of carpet done under a building lease-maintenance contract and paid for out of public funds.

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(e) The laying of carpet in a public building done under contract and paid for in whole or in part out of public funds.

(f) Public transportation demonstration projects authorized pursuant to Section 143 of the Streets and Highways Code.

(Amended by Stats.1989, c. 278, ' 1, eff. Aug. 7, 1989; Stats.2000, c. 881 (S.B.1999), ' 1.)

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City of San Diego
Consultant Performance Evaluation

EXHIBIT H

The purpose of this form is to provide historical data to City staff when selecting consultants.

Section I

1. PROJECT DATA		2. CONSULTANT DATA	
1a. Project (title, location and CIP No.): 1b. Brief Description: 1c. Budgeted Cost:		2a. Name and address of Consultant: 2b. Consultant's Project Manager: Phone () _____	
3. CITY DEPARTMENT RESPONSIBLE			
3a. Department (include division):		3b. Project Manager (address & phone):	
4. CONTRACT DATA (DESIGN AND CONSTRUCTION)			
4. Design 4a. Agreement Date: _____ Resolution #: _____ \$ _____ 4b. Amendments: \$ _____ / # _____ (City) \$ _____ / # _____ (Consultant) 4c. Total Agreement (4a. & 4b.): \$ _____			
4d. Type of Work (design, study, etc.):		4e. Key Contract Completion Dates: <div style="display: flex; justify-content: space-between;"> _____ % _____ % _____ % _____ % _____ % 100 % </div> Agreement _____ Delivery _____ Acceptance _____	
5. Construction			
5a. Contractor _____ <div style="text-align: center;">(name and address)</div>		Phone () _____ 5b. Superintendent _____	
5c. Notice to Proceed _____ (date) 5d. Working days _____ (number) 5e. Actual Working days _____ (number)		5f. Change Orders: Errors/Omissions _____ % of const. cost \$ _____ Unforeseen Conditions _____ % of const. cost \$ _____ Changed Scope _____ % of const. cost \$ _____ Changes Quantities _____ % of const. cost \$ _____ Total Construction Cost \$ _____	
6. OVERALL RATING (Please ensure Section II is completed)			
6a. Plans/specification accuracy..... Consistency with budget..... Responsiveness to City Staff..... 6b. Overall Rating _____		Excellent _____ _____ _____	Satisfactory _____ _____ _____
<div style="display: flex; justify-content: space-between;"> Poor _____ _____ _____ </div>			
7. AUTHORIZING SIGNATURES			
7a. Project Manager _____		Date _____	
7b. Deputy Director _____		Date _____	

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Section II

SPECIFIC RATINGS

PLANS/SPECIFICATION ACCURACY	EXCELLENT	SATISFACTORY	POOR	N/A	RESPONSIVENESS TO STAFF	EXCELLENT	SATISFACTORY	POOR	N/A
Plan/Specification clear and precise					Timely Responses				
Plans/Specs Coordination					Attitude toward Client and review bodies				
Plans/Specs properly formatted					Follows direction and chain of responsibility				
Code Requirements covered					Work product delivered on time				
Adhered to City Standard Drawings/Specs					Timeliness in notifying City of major problems				
Drawings reflect existing conditions					Resolution of Field problems				
As-Built Drawings					CONSISTENCY WITH BUDGET	EXCELLENT	SATISFACTORY	POOR	N/A
Quality Design					Reasonable Agreement negotiation				
Change Orders due to design deficiencies are minimized					Adherence to fee schedule				
					Adherence to project budget				
					Value Engineering Analysis				

Section III

SUPPLEMENTAL INFORMATION

Please ensure to attach additional documentation as needed.

Item _____:

Item _____:

Item _____:

Item _____:

Item _____:

Item _____:

(*Supporting documentation attached yes _____ no _____)

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ATTACHMENT 1

CERTIFICATION OF LOCAL AGENCY

I HEREBY CERTIFY that I am the _____ of the Local Agency of _____, and that the consulting firm of _____, or its representative has not been required (except as herein expressly stated), directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- (a) employ, retain, agree to employ or retain, any firm or persons; or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation, or consideration of any kind.

I acknowledge that this Certificate to be furnished to the California Department of Transportation (CALTRANS) in connection with this Agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

(Date)

(Signature)

CERTIFICATION OF CONSULTANT

I HEREBY CERTIFY that I am the President and duly authorized representative of the firm of Helenschmidt Geotechnical, Inc., whose address is 5245 Avenida Encinas, Suite B, Carlsbad, CA 92008, and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Agreement; nor

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor

(c) paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the agreement.

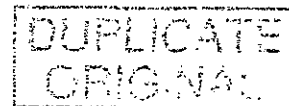
I acknowledge that this Certificate is to be furnished to the California Department of Transportation (CALTRANS) in connection with this Agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

December 10, 2007

(Date)



(Signature)

SECOND AMENDMENT TO AGREEMENT

This Second Amendment to the Soledad Mountain Road Landslide Repair dated December 13, 2007 [Agreement], is hereby entered into by and between the City of San Diego [City], a municipal corporation, and Helenschmidt Geotechnical Inc. [Consultant].

RECITALS

A. The City and Consultant [collectively referenced herein as the "Parties"] entered into the Agreement, which is on file in the Office of the City Clerk as Document No. C-14414, to provide Professional Services for the Soledad Mountain Road Landslide Repair [Project].

B. The City desires to execute a Second Amendment to the Agreement for the Consultant to provide additional Professional Services, as indicated in the expanded Scope of Services [Exhibit A-2], for a compensation amount not to exceed \$813,027.00, with total compensation for services provided under the Agreement not to exceed \$2,315,527.00.

C. Consultant desires to provide the services required under this Second Amendment.

NOW, THEREFORE, in consideration of the Recitals stated above and incorporated herein by this reference and the mutual obligations of the Parties expressed herein, the Parties agree to modify the Agreement, which is incorporated herein by reference, as follows:

1. Section 1.1 is amended to read as follows:

ADD: "The Consultant shall perform Professional Services as set forth in the written Scope of Services [Exhibit A-2] at the direction of the City on a fixed fee basis as specifically enumerated in the Compensation and Fee Schedule [Exhibit B-2], and in accordance to the Time Schedule [Exhibit C-2]."

2. Section 3.1 is amended to read as follows:

ADD: "The City shall pay the Consultant for all Professional Services and all expenses related to performance under this First Amendment to the Agreement, in an amount not to exceed \$813,027.00 as set forth in the Compensation and Fee Schedule [Exhibit B-2],

Document No. **C-14840-2**
Filed **DEC 15 2008**
Office of the City Clerk
San Diego, California

consisting of **\$774,311.00** for the expanded Scope of Services, and **\$38,716.00** for any Additional Services as described in Section 3.2. The Consultant shall be entitled to compensation for Professional Services under this First Amendment to the Agreement, whether within the Scope of Services or as Additional Services, based on the Compensation and Fee Schedule. For the duration of this First Amendment to the Agreement, the Consultant shall not be entitled to fees which exceed the Compensation and Fee Schedule. The total compensation to the Consultant under this Agreement shall not exceed **\$2,315,527.00**.

3. Section 3.2 - Additional Services is amended to read as follows:

000626 ADD: "If the City requires additional Professional Services [Additional Services] beyond the Scope of Services performed pursuant to this First Amendment to the Agreement, except for additional costs as described in Section 3 of this Agreement, the City shall pay Consultant an additional fee not to exceed **\$38,716.00**. The City and the Consultant must agree in writing upon such fee for a specific task based on the Fee Schedule prior to the Consultant beginning the Additional Services."

4. Article VII is amended to read as follows:

ADD: "7.11.1 California Code of Regulations, Title 19, Section 2915, is applicable only to the expanded Scope of Services (Exhibit A-2) for the Second Amendment to the Agreement.

5. The following attachments are incorporated herein by reference as follows:

Exhibits A-2 (Scope of Services), B-2 (Compensation and Fee Schedule), and C-2 (Time Schedule).

6. The Parties agree that this Second Amendment to the Agreement represents the entire understanding of the Consultant and the City and affects only those paragraphs referred to, and all other terms and conditions of the Agreement remain in full force and effect.

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IN WITNESS WHEREOF, this Second Amendment to the Soledad Mountain Road
Landslide Repair Project is executed by the City of San Diego acting by and through its
Mayor, or his designee, pursuant to San Diego Municipal Code section 22.3223
authorizing such execution, and by the Consultant.

THE CITY OF SAN DIEGO
Mayor or Designee

By: Tammy Rimes
Tammy Rimes
Assistant Director
Purchasing & Contracting

Date: 12/3/08

Helenschmidt Geotechnical Inc.

By: Stanley Helenschmidt

Name: Stanley Helenschmidt

Title: President

Date: November 15, 2008

I HEREBY APPROVE the form and legality of the foregoing Amendment on this

12th day of December, 2008.

MICHAEL AGUIRRE, City Attorney

By: Michael Calabrese
Michael Calabrese
Deputy City Attorney

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SECOND AMENDMENTSCOPE OF SERVICESUNDERSTANDING OF OBJECTIVES

We understand that the City desires to complete stabilization of Desert View Drive alley. Shear pin installation for the Desert View Drive alley stabilization is to commence shortly with an estimated duration of 6 months. Shear pin installation is to include 44 cast-in-drilled-hole (CIDH) reinforced piers installed in the slope area along the easterly property lines at 5695 to 5735 Soledad Mountain Road. After shear pin installation is complete, a reinforced slope will be constructed east of the alley stabilization shear pins and the slope above the shear pins will be surface-compacted and extended up to the level of Soledad Mountain Road at an approximate inclination of 3 to 1 horizontal to vertical. For purposes of this amendment, we have considered geotechnical services for grading of the slope above (west of) the proposed alley shear pins to be associated with Soledad Mountain Road stabilization (under separate Amendment Number 1 to Contract C14414) and geotechnical services for grading of the slope below (east of) the alley shear pins to be associated with Desert View Drive alley stabilization (covered under this Amendment Number 2 to Contract C14414).

Due to the thin (approximately 2 inch thick) pavement section on Desert View Drive alley, significant pavement distress is likely to occur from truck traffic. Consequently, the alley will be repaved after stabilization efforts of the slope have been completed. The City has requested that we provide geotechnical observation and testing during the reconstruction of Desert View Drive alley from Palamino Circle to the portion of Desert View Drive alley impacted by the October 3, 2007 landslide.

We further understand that the City desires to continue monitoring of inclinometer casings within and adjacent to Desert View Drive alley while stabilization efforts for Desert View Drive alley and regrading of the slope at 5695 to 5735 Soledad Mountain Road are completed. Part of construction monitoring is to include vibration monitoring of the construction area and along Desert View Drive (lower) at selected locations and installation and monitoring of one inclinometer along Desert View Drive (lower) in a location of existing pavement distress. The City has also indicated a desire for installation of inclinometers within several of the proposed alley stabilization shear pins for monitoring during the completion of construction and after construction. The schedule for post-construction monitoring can be evaluated at a future date.

SCOPE OF SERVICES

We propose the following scope of work to provide geotechnical consultation during stabilization construction and road reconstruction operations, continue characterization of the site geologic and geotechnical conditions, prepare supplemental design plans as needs arise, perform downhole geologic logging of selected shear pin borings, install inclinometer casings in one location along lower Desert View Drive and within selected shear pins, perform monitoring of deflections of existing and proposed inclinometers within and adjacent to Desert View Drive alley, perform vibration monitoring, provide testing and observation during construction activities, perform required abandonment of inclinometers which will be taken out of service, analyze as-built geologic and geotechnical conditions, perform as-built slope stability calculations and prepare an

the duration of construction is anticipated to be approximately 6 months.

The following outlines our currently anticipated continuation of emergency design geotechnical services under this amendment:

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1. Coordination with City Staff – We will communicate on a daily basis with City staff, regarding project needs and data as they develop. We will respond to emergency situations and provide geotechnical consultation, as needed, to the City. Specific project geotechnical tasks may be authorized by the City's project manager, the City Geologist, the Resident Engineer or the City Engineer. We will continue to attend coordination meetings with the City (one per week onsite).

2. Supplemental Design Plans – We will prepare supplemental design plans as requested by the City's project manager.

3. Downhole Logging of Shear Pin Borings - Downhole geologic logging will be performed on approximately 30 percent of the shear pin borings. The purpose of the geologic logging is to identify the elevation, condition and orientation landslide basal rupture surface as well as other potential shear planes within the depth of the shear pin. We understand that the contractor will pre-drill the borings to be logged to a diameter of 30 to 36 inches. A drilling contractor will be subcontracted by HGI to lower our geologist into the hole. Geologic logs of shear pin borings will be utilized to augment existing subsurface data and to provide an updated model for as-built stability analysis, if appropriate.

4. Installation of Inclinometer Casings – One inclinometer will be installed in the City right of way for lower Desert View Drive in a location determined by our office and the City of San Diego (in an area of existing distressed pavement). A boring shall be advanced to below the fill/natural contact for inclinometer installation. The boring shall be logged and sampled by our field representative. A boring permit shall be obtained from the County of San Diego Department of Environmental Health (DEH). The inclinometer shall be completed in accordance with DEH requirements. Inclinometer casings will also be provided within several of the proposed shear pins. Inclinometers will be secured to rebar cages as the shear pin cages are placed. Surface completions will be made after the grading of the slope is completed. We assume that the contractor will take appropriate precautions to protect inclinometer casings from damage or destruction during construction operations. Please note that we have assumed that inclinometer casings within shear pins shall not be subject to DEH permitting requirements. In the event that DEH requires permitting, additional geotechnical costs and fees will be incurred that are not covered within the current scope and cost.

5. Inclinometer and Vibration Monitoring - We will perform readings of the inclinometer installations within and adjacent to Desert View Drive alley and one inclinometer along lower Desert View Drive. Monitoring shall be performed during shear pin installation, reinforced fill slope construction between the alley shear pins and Desert View Drive alley, completion of grading adjacent to the east side of Soledad Mountain Road (5695 to 5735) and completion of alley roadway reconstruction (between Palamino Court and the landslide area). Vibration monitoring will be performed utilizing seismographs at selected locations during construction including along lower Desert View Drive. We will send inclinometer plots to the City Geologist following data reduction. The schedule for continued monitoring beyond completion of construction will be determined at a future date under a separate amendment.

6. Geotechnical Observation and Testing During Construction – We will perform geotechnical observation and testing during geogrid and fill placement for the temporary crane pad between 5720 and 5734 Desert View Drive. We will perform geologic mapping of the keyway east of the alley stabilization shear pins during excavation. Geologic mapping will be performed under the direct supervision of a Certified Engineering Geologist. Results of geologic mapping will be incorporated into the geologic map to be presented in the as-built report. We will perform observation and compaction testing of the fill soils and observation of geogrid placement east of

subgrade and base soils for the proposed alley roadway reconstruction. Compaction testing will be performed with a nuclear densometer (ASTM D2922) and/or a sand cone density apparatus (ASTM D1556). We will perform laboratory maximum density tests (ASTM D1557) for determination of field compaction levels.

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7. Abandonment of Inclinator Installations – Current inclinometer installations within private properties will be abandoned in accordance with DEH regulations. If required, we will provide after the fact documentation of abandonment procedures to DEH and appropriate fees.

8. Analysis of As-Built Geologic and Geotechnical Data - We will incorporate geologic and geotechnical data acquired during construction into as-graded cross sections and geologic maps. Where appropriate, stability analysis of the as-graded cross sections will be performed reflecting revised geologic data.

9. Preparation of As-Built Geotechnical Report – Geologic and geotechnical conditions encountered during grading will be summarized in the as-built geotechnical report. The report will include as-built geologic maps and cross sections, results of inclinometer monitoring, supplemental slope stability analyses, results of vibration monitoring, compaction test data, and steel and concrete test results. The report will provide conclusions regarding conformance of construction to stabilization plans and geotechnical recommendations. Supplemental recommendations will be provided, if appropriate, regarding monitoring and site maintenance.

NOTE:

Any recommendations and/or design criteria provided within our scope of work are contingent upon our firm being retained to provide consultation, testing and inspection services during construction and to be consulted when any questions arise with regard to recommendations provided. Unanticipated soil and geologic conditions are commonly encountered during construction which cannot be fully determined from existing exposures or by limited subsurface investigation. Such conditions may require additional expenditures during construction to obtain a properly constructed project. Some contingency fund is recommended to accommodate these possible extra costs.

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HELENSCHMIDT GEOTECHNICAL, INC.
SCHEDULE OF CHARGES
SOLEDAD MOUNTAIN ROAD LANDSLIDE

PERSONNEL

Principal Engineer	\$ 180/hr
Senior Engineer/Geologist	\$ 135/hr
Project Engineer/Geologist	\$ 115/hr
Senior Staff Professional	\$110/hr
Staff Professional	\$ 105/hr
Field/Laboratory Technician	\$ 90/hr
Technical Illustrating	\$ 85/hr
Word Processing	\$ 65/hr
Clerical/Accounting	\$ 65/hr
Special Consultants	By Arrangement

EQUIPMENT AND SERVICES

Inclinometer System	\$ 150/day
Floor Level Surveying Equipment	\$ 100/day
Groundwater Level Probe	\$ 75/day
Digital Camera	\$ 75/day
Nuclear Moisture/Density Gauge	\$ 65/day
Laser Distance Meter	\$ 50/day
Vehicle	\$.75/mi
Photocopying	\$.15/copy
Computer Assisted Plotting	\$10/sq.ft.
Seismograph	\$100/day
Gas Detector	\$50/day

The minimum charge for field observation time is two hours. Travel time will be charged at the applicable hourly rates above. Overtime for Field Technician Personnel is billed at 1.5 times the hourly rate.

Expert witness testimony for court appearances will be charged on a daily basis (minimum one day increments) at a rate of \$3,040 per day. Deposition testimony will be charged at a rate of \$380 per hour (minimum two hour charge). Preparation time and consultation for depositions or court appearances will be charged on a time-and-expense basis in accordance with the Personnel, Equipment, and Expense charges listed herein.

LABORATORY TESTING

Laboratory testing will be charged on a time-and-expenses basis in accordance with the Personnel, Equipment, and Expense charges listed herein. Outside laboratory services will be charged at cost plus 15 percent. Sample transport will be billed at the applicable personnel and mileage rates as shown. Special handling, supplies, permitting or containers will be billed at cost plus 15%. Laboratory samples will be discarded 60 days after the date of final report submittal unless storage is requested by the client. Sample storage charges will be quoted upon request.

EXPENSES AND OUTSIDE SERVICES

Expenses will be billed at cost plus 15 percent including but not limited to: Travel expenses including air fare, lodging, vehicle rental, etc. (a flat subsistence charge of \$60 per diem for overnight stay will be charged in addition to the lodging cost); Excavation and drilling subcontractors and expendable field supplies; Reproduction; Photographic film, processing and printing; Special fees, permits, insurance, etc.; Long distance communications; Equipment rental; Special mail service (overnight, freight, courier, etc.); and Special consultant fees.

LIMITATIONS AND TERMS

Professional Liability - We will use that degree of care and skill ordinarily exercised under similar circumstances by members of our profession in performing our services. No warranty, express or implied, is made or intended by our proposal for consulting services, by our furnishing oral or written reports, or by our inspection or work.

Field Exploration - The client grants us right-of-entry to the project site. The client will provide us with locations and depths of buried utilities and structures. We assume no responsibility for damage or injury resulting from unmarked underground utilities or improvements. Our fee does not include cost of restoration of damage resulting from our exploration operations. Incidental damage will be repaired upon request on a time and expenses basis upon request.

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SECOND AMENDMENT

SCHEDULE

**Schedule for second Amendment to City of San Diego Contract Number C14414
Emergency Geotechnical Services for Soledad Mountain Road**

The proposed scope of work described, Items 1 through 9 as described in the Scope of Services dated October 25, 2008, shall be performed, as needed, during the period of August 2008 through April 2009.